

State of Maine
Department of Conservation

Maine Land Use Regulation Commission

Public Hearing

October 2, 2007 and October 3, 2007

Zoning Petition ZP 709, TransCanada

Held at the Sugarloaf Grand Summit Conference Center
Carrabassett Valley, Maine

1 (The hearing commenced on October 1, 2007 at
2 8:46 a.m.)

3 * * * * *

4 THE CHAIR: Good morning, everyone. I guess I have
5 the gavel, it's official, we can start.

6 We'll get started. I'm sorry we're a little late
7 here. We're trying to get some procedural things taken care
8 of. Are we all set to go, TransCanada?

9 MS. BROWNE: Yes.

10 THE CHAIR: All of the intervenors?

11 MS. PRODAN: Chairman Harvey, it's my understanding
12 that those chairs are available for the attorneys for the
13 intervenors.

14 THE CHAIR: If they wish. That's up to them, so you
15 can sit wherever you like.

16 Are you all set, Catherine?

17 MS. CARROLL: I am.

18 THE CHAIR: Good morning, ladies and gentlemen. My
19 name is Bart Harvey, and I'm chairman of the Land Use
20 Regulation Commission, and I'll be the presiding officer for
21 the hearing today.

22 Members of the Commission with us this morning -- and
23 I think there's some more coming later -- Gwen Hilton and Steve
24 Wight, Rebecca Kurtz. I think Steve Schaefer will be joining
25 us later this morning.

1 In addition to the -- we have Amy Mills, who is our
2 counsel from the attorney general's office; Catherine Carroll,
3 the director of LURC; Scott Rollins; Diana McKenzie, the senior
4 planner who is filling in for Marcia Spencer-Famous, who is not
5 able to be with us today; Melissa Macaluso, who is somewhere
6 here making all the arrangements; and our court reporter today
7 is, Lisa Fitzgerald. And I assume, given the look of the crowd
8 here, you all ought to know these people by now, you've been
9 here enough to do this.

10 Today's hearing is being the held pursuant to the
11 provisions of Title 12 MRSA, Section 685-A, and the hearing
12 will be conducted in accordance with Chapter 5 of the
13 Commission's rules for the conduct of public hearings.

14 The hearing is being conducted to receive public
15 testimony in the matter of Zoning Petition ZP 709 submitted by
16 TransCanada, Maine Wind Development, Inc., to rezone 2908 acres
17 in Kibby and Skinner Townships, Franklin County, from a
18 mountain area protection subdistrict to a planned development
19 subdistrict to develop a wind power facility.

20 Within the planned development subdistrict, the wind
21 power facility would include 44 turbines on the south side of
22 Kibby Mountain and the Kibby Range, access roads, and utility
23 lines.

24 Outside of the planned development subdistrict in
25 Kibby Township, the wind power facility would include access

1 roads, utility lines, a substation, and a maintenance and
2 operations building.

3 The 115-kV transmission would be located in Kibby,
4 Jim Pond, Wyman Township, as well as organized towns of Eustis
5 and Carrabassett Valley, and would connect to the grid at the
6 Bigelow substation.

7 The purpose of today's hearing is to allow the
8 petitioner, intervenors, and government agencies to present
9 summaries of their prefiled direct testimony and evidence to
10 whether the development proposal meets the criteria for
11 amendment to land use boundaries as specified in Title 12 MRSA,
12 Section 685-(8)-A of the Commission's statute and the relevant
13 provisions of the Commission's Land Use Districts and
14 Standards.

15 We will first hear from the Commission staff, who
16 will provide a brief overview of the proposal and
17 administrative history. We'll then ask the petitioner to
18 provide a summary of the proposal in their prefiled testimony.

19 Following the petitioner, the intervenors and
20 interested parties will present summaries of their prefiled
21 testimony.

22 The State soil scientist and representative of the
23 Maine Public Utilities Commission and the Maine Department of
24 Inland Fisheries & Wildlife will be available to answer
25 questions about their review comments.

1 At the conclusion of the testimony from each witness,
2 cross-examination may be conducted by the Commission, its
3 staff, by the petitioner, and by the intervenors. Commission
4 and staff members and counsel for the Commission may ask
5 questions at any time.

6 Before the testimony is presented, anyone requesting
7 time for rebuttal at the end of the hearing should indicate
8 their wish to do so and the request will be taken under
9 consideration as the hearing proceeds.

10 All witnesses must be sworn and will be required to
11 give -- before they give testimony to state for the record
12 their name, residence, business or professional affiliation,
13 the nature of their interest in the hearing, and whether or not
14 they represent another individual, firm, or other legal entity
15 for the purpose of the hearing.

16 In addition to being transcribed, we will be
17 recording the proceedings, so I would request obviously you
18 have to use microphones and speak clearly so that we can all
19 hear you.

20 Just to remind you, all questions and testimony must
21 be relevant to the Commission's criteria for rezoning and
22 criteria for approval of the project. Irrelevant and unduly
23 repetitious material will be excluded.

24 The record for this hearing is going to remain open
25 for ten days for written comments for the parties until

1 October 15 and for an additional seven days, until October 22nd
2 for rebuttal, or as determined by the presiding officer, if we
3 need to change that after we do this.

4 Written public comments will be entered into the
5 record until October 22nd. After that no additional evidence
6 or testimony will be allowed.

7 If you wish to receive a copy of the final action
8 taken by the Commission as a result of this hearing, you can
9 leave your name and address with our staff.

10 I'm going to swear -- I'm going to -- we'll swear all
11 the witnesses in today. We've got a couple of procedural
12 things to do, so I think I'll wait for the swearing until we've
13 got those taken care of.

14 I'm going to ask Catherine to give a summary of the
15 administrative history of the project and to offer the exhibits
16 that we have, at least as of this time, for the record.

17 MS. CARROLL: For purposes of the record, I'm going
18 to provide a distilled version of an administrative history, a
19 four-page administrative history. I'm going to make this a lot
20 quicker and less painful for everyone.

21 I have available copies, extra copies, of the hearing
22 schedule, and this staff statement, this four-page staff
23 statement, in which I'm not going to read in its entirety, and
24 I also have extra copies of the exhibits listed. Anyone who
25 cares to get those, they can grab copies from Diana down here

1 on my left.

2 Zoning Petition ZP 70 and preliminary development
3 plan for the Kibby wind power project. On April 13, 2007,
4 TransCanada, Maine Wind Development, Inc. -- also known as
5 TransCanada -- which is a wholly owned subsidiary of
6 TransCanada Corporation, submitted a petition to rezone
7 approximately 2900 acres in two parcels on Kibby Mountain and
8 Kibby Range in Kibby Township and Skinner Township, Franklin
9 County from a mountain area protection subdistrict and a
10 general management subdistrict to planned development
11 subdistrict for the purpose of constructing the 132-megawatt
12 Kibby wind power project.

13 The petition to rezone included a preliminary
14 development plan for the construction of 44 wind turbines, 17.4
15 miles of new gravel access roads, 19 miles of upgrades of
16 existing roads, 34.5-kV transmission lines connecting the
17 turbines at the proposed Kibby substation, 27.7 miles of
18 above-ground 115-kV transmission line, and associated
19 facilities and activities.

20 Each turbine tower would be 263 feet tall with an
21 additional 147 feet to the tip of the rotor blade for a total
22 height of 410 feet.

23 A portion of the 115-kV transmission line associated
24 with the project would be in the organized Towns of Eustis and
25 Carrabassett Valley.

1 The permit application for this portion of the line
2 is being reviewed by the Maine Department of Environmental
3 Protection and the Towns of Eustis and Carrabassett Valley and
4 is not included in the review by the Commission.

5 During construction approximately 218 acres would be
6 cleared above 2700 feet in elevation. After construction
7 approximately 29.4 acres above 2700 feet in elevation would
8 remain unvegetated.

9 The total area of proposed wetlands impact, temporary
10 plus permanent, within this planned development subdistrict
11 would be approximately 1.6 acres. For the transmission line,
12 the total area of conversion of PWL-3 to PWL-1 and PWL-2 would
13 be 38.17 acres.

14 The matter being considered at this time is the
15 rezoning of the parcel on Kibby Mountain and Kibby Range and
16 the associated preliminary development plan. A final
17 development plan and the intended permit to construct the
18 facility would be considered only if the rezoning is approved.

19 Exhibit Nos. 1 to 14 are submitted to the file.
20 Again, you can all reference the list of exhibits dated
21 September 29th, '07, in which we have extra copies. This staff
22 statement, the four-page version, is -- has been submitted as
23 Exhibit 9 into the public hearing record; is that correct --

24 Thank you.

25 THE CHAIR: Thank you, Catherine. Now, before we get

1 started with the presentation of TransCanada, we've got a
2 couple of procedural things to deal with. One is obviously --
3 I think all the parties are aware we had some objections raised
4 concerning the conservation packages that were part of the
5 proposal and the contribution being made to the Town of Eustis.

6 I guess that we would -- to dispose of that before we
7 get started, so everybody knows where we are, and I guess that
8 since I would ask the chief objector, who is Ms. Prodan, to
9 make a few brief comments on her concerns; and then allow
10 Juliet to make her rebuttal.

11 How is that? And I'll make a ruling on that one.

12 MS. PRODAN: The concern of Friends of the Boundary
13 Mountains was simply that it did not seem to us that the
14 compensation package, the conservation package, and the
15 community benefits packages, there didn't seem to be any
16 criteria applicable to even taking them up during the hearing.

17 Although there certainly is some interesting
18 information in there, I don't think that a lot of time should
19 be spent on it, but it's really up to the Commission whether
20 they want to hear -- I mean, we're not going to continue with
21 our objection if the commissioners do want to hear a lot of
22 information on that. We would just want to be able to also
23 cross-examine on that if that is discussed.

24 We still don't think it's particularly relevant to
25 your decision.

1 THE CHAIR: Thank you, Pam. Juliet.

2 MS. BROWNE: Thank you, Chairman Harvey. We agree
3 that we don't intend to spend a lot of time on this issue.
4 There are obviously other issues that are more central to your
5 decision making process, but it is part and parcel of the
6 project, and I think it's important that the applicant be
7 entitled to provide the full picture of the project.

8 You oftentimes hear about the economic benefits of
9 the package, the tax payments, and the post-benefit package is
10 in line with those types of economic benefits of the project,
11 which I think are important, and I don't think that each piece
12 of the project has to be narrowly tailored to a specific review
13 criteria.

14 There are also -- there's a piece of the conservation
15 package that involves not developing some of the ridgelines in
16 the immediate area of the project, and that actually does
17 directly go to the best reasonably available site criteria. So
18 that's one piece that can be pretty narrowly tailored to a
19 specific review criteria.

20 But again, I don't think the Commission has to do
21 that with every piece of information that comes before it. A
22 project is a project in its entirety, and I think the
23 Commission's entitled to hear the full range of components of
24 the project. Again, we have limited time, so we don't intend
25 to spend much time talking about it either.

1 THE CHAIR: Thank you. Any of the other intervenors
2 have something to say on this? Okay. Very good. My turn, I
3 guess, isn't it.

4 I think -- we've obviously had some discussion with
5 the attorney, our attorney, but I think we're going to -- the
6 way I think we should proceed is we're going to -- obviously
7 all this information is in the testimony at this point, so
8 we're going to allow it to remain in the record.

9 I think it's our view that it's probably marginally
10 relevant to our review criteria and that we will view it in
11 that context. So we'll leave it at that and with hope that we
12 don't spend hours talking about it, if I could offer some
13 advice to both parties, okay? We want other issues that are
14 very relevant to our criteria as you're all aware. We need to
15 hear about those.

16 Now, the second issue, we're going to, I guess, do
17 something a little different here and we want you to know about
18 it before we start with the rest of the hearing is that
19 we're -- I'll ask that the parties -- and that all parties --
20 at the conclusion of the hearing, we're going to ask that you
21 be -- provide us, LURC, with your version of the findings of
22 fact in the case and cite. These should be as specific as you
23 can make them with citations to the record, so that you tell us
24 why you think what the facts are and what evidence supports
25 those facts.

1 Now, we probably -- my toe is being stepped on here,
2 just a minute -- I have some very specific words I have to say.

3 I have some very specific words I have to say.

4 Basically what I've been mumbling about is that we need you to
5 do proposed findings of facts and rulings of law. How's that.
6 All you lawyers know exactly what that means.

7 This will allow us then to move forward in the
8 decision making process. I don't think we've done this before,
9 but these cases are getting very large and will help us work
10 our way through the huge pile of evidence that we have before
11 us.

12 I believe that basically -- obviously you can't begin
13 to do this until the hearing closes, and we're probably going
14 to give you four weeks as a matter of time unless I hear some
15 huge objections from everybody, it would give you about a month
16 from the date the record closes to submit these findings of
17 fact.

18 You don't -- I wouldn't ask you to respond to that
19 right now, but if you want to think about that in the course of
20 the hearing, we can talk about that later. We did want you to
21 be aware that we were going to try this approach before we
22 started.

23 I think we'll leave it at that for now. I will be
24 willing, time issues, if you want to suggest different timing
25 to me, you can.

1 With that I guess we need to move to swearing in of
2 witnesses.

3 MS. PRODAN: There was the local interests. Because
4 testimony of the local interests was only provided to the
5 intervenors a couple of days ago, it was mentioned that if we
6 wanted to cross-examine Mr. Wyman, that we make it known at the
7 beginning of the hearing. His panel -- he's on this afternoon.
8 Friends of the Boundary Mountains would request five minutes
9 for him.

10 The other thing I wanted to mention in regard to the
11 timing today is that although the table one in the hearing
12 schedule dictates the Friends of the Boundary Mountains has 150
13 minutes to cross-examine TransCanada, if you look in the
14 narrative, it actually says we have from 11:10 to -- I better
15 look at it myself. It only adds up to a shorter amount of
16 time. It's 60 minutes in the morning 11:10 to 12:10, and then
17 from 12:40 to 1:50 in the afternoon, it says 90 minutes, but
18 that only adds up to 70 minutes.

19 Just so that you're aware, we really don't have 150
20 minutes today, we only have 130. So we hope there's some
21 tolerance there.

22 THE CHAIR: You're not going to use all that any way,
23 are you, Pam?

24 MS. PRODAN: I have a lot of questions.

25 THE CHAIR: All right. Yes, Juliet.

1 MS. BROWNE: Just a couple of housekeeping matters.
2 One of our witnesses, Dr. Colgan, has to leave to teach a
3 class, so if possible, if we could do any cross-examination of
4 him at the beginning so that he could leave at the lunch break,
5 I know he would greatly appreciate that.

6 THE CHAIR: I would assume we could accommodate that
7 request. We'll let Ms. Prodan -- is that okay?

8 MS. PRODAN: Yes.

9 MS. BROWNE: Thank you. Then also I just want to
10 make clear, we had requested an opportunity to cross-examine
11 any agency witness who provides comments, and it's not actually
12 reflected in the schedule, and we would just request a
13 reasonable opportunity to question the two -- Mitch Tannenbaum
14 and Dave Rocque.

15 THE CHAIR: The plan was that they're going to be
16 here to do that, so if it's not in the schedule, it should have
17 been. That just -- how much time are you willing to give up?

18 MS. BROWNE: I'll only take a half hour.

19 THE CHAIR: They're going to be here and be
20 available. If they're not in the schedule, we'll get that
21 corrected.

22 MS. CARROLL: Available for questioning tomorrow
23 afternoon.

24 THE CHAIR: Tomorrow afternoon was the plan.

25 MS. CARROLL: The Commission has 15 minutes to

1 question and Friends of the Boundary Mountains has 50 minutes
2 and TransCanada is not on there.

3 THE CHAIR: They didn't request time to ask any
4 questions, is that true? I can't speak for Marcia.

5 MS. BROWNE: No, my letter requested an opportunity
6 to question. We didn't ask a specific amount of time because
7 we weren't clear on how much time --

8 THE CHAIR: We'll figure something out for you, don't
9 worry.

10 Anybody else?

11 I hope that those of you, for some reason you don't
12 get sworn in and you come -- if the attorneys will help me keep
13 an eye on it, we've had people that did come that didn't get
14 sworn in, you'll remind us to do that.

15 (Witnesses were sworn en masse.)

16 THE CHAIR: With that, TransCanada you're on.

17 We're just -- keeping track of time, Juliet, between
18 10:30 and quarter of 11, you'll probably be wrapping up with
19 this panel, is that true, an hour and a half?

20 MS. BROWNE: 95 minutes I believe.

21 THE CHAIR: I don't know how you got five minutes.

22 MS. BROWNE: For a brief opening statement perhaps.

23 THE CHAIR: Okay.

24 MS. BROWNE: Thank you, Chairman Harvey and members
25 of the Commission and LURC staff. My name is Juliet Browne,

1 and on behalf of the entire TransCanada and Kibby project team,
2 I want to express our appreciation for the opportunity to be
3 here today and talk about the project and answer questions.

4 The Commission, as you know, are painfully aware,
5 probably, has received a substantial amount of information on
6 wind power generally over the last really two years.

7 On more than one occasion you heard from
8 Chairman Adams from the Maine PUC, you've heard from
9 Commissioner Littell from the DEP, you've heard from John
10 Kerry, and before him Beth Nagusky from the Office of Energy
11 Independence and Security.

12 Each of them, without exception, has stated that
13 there is a need for wind power in Maine and that there are real
14 energy and environmental benefits that result from wind power
15 in Maine. So because the agencies are tasked with implementing
16 the State's broader energy and environmental policies have
17 spoken to these issues, our presentation today is not going to
18 focus on them.

19 That's not to suggest in any way that they're
20 unimportant. We believe they're critically important. But as
21 you're aware, your task is probably the more difficult task,
22 which is to decide whether a particular project in a particular
23 location is appropriate and whether it meets your governing
24 criteria.

25 I think it's worth stepping back for a minute and

1 looking at what those criteria are. Just walking in today,
2 there's a sign that says, No Development Above 2700 Feet, It's
3 the Law.

4 Well, with all due respect, that's not what the CLUP
5 states. The CLUP specifically acknowledges the potential for
6 development of wind power and development of wind power in
7 areas above 2700 feet.

8 It specifically states -- and I believe it's on
9 Page 40 of the CLUP -- that the wind resources are significant
10 and that much of it occurs along high mountaintops and ridges.

11 It also acknowledges the balancing that must occur
12 between allowing development and harnessing of that resource
13 and the potential to conflict with the values protected by the
14 P-MA zone.

15 It goes on on Page 58 and 59 of the CLUP to
16 specifically address how to manage that balancing. It
17 identifies a regulatory process for allowing a rezoning from a
18 P-MA zone to a D-PD zone, which is why we're here today and the
19 process that we're talking about.

20 Interestingly and importantly, as part of that
21 rezoning of areas above 2700 feet, the CLUP identifies four
22 principal factors to consider because they are potentially at
23 risk for the rezoning of a P-MA area: Visual, soils, wildlife,
24 and technical feasibility.

25 So you will hear from our panelists today on these

1 four topics, and we've presented in our prefiled testimony
2 information relating to these four topics.

3 I think what you will hear is that while no site is
4 without constraints, while no project is without impacts, the
5 Kibby site is an excellent site for wind power development, and
6 TransCanada has spent the time and the effort to understand the
7 resources of the site, the constraints of the site, and to
8 develop a project that takes into account those resources and
9 constraints; and is consistent with your governing criteria, it
10 minimizes environmental impacts, it's technically feasible, and
11 that will advance the State's broader energy and environmental
12 goals.

13 So mindful of our 95 minutes, I appreciate the
14 opportunity to just provide some of this context information,
15 and I'm going to turn it over to Terry Bennett. Our panelists
16 will introduce themselves as they go along, and not every
17 panelist is making a presentation in the interest of time, but
18 they're all obviously available for cross-examination. Thanks.

19 MR. BENNETT: Good morning, Mr. Chairman,
20 commissioners, Catherine. My name is Terry Bennett and I'm the
21 director of wind energy at TransCanada.

22 Let me first of all acknowledge the effort and hard
23 work of the Commission. We know it's been a very busy year for
24 you. On behalf of TransCanada I would like to thank you for
25 your time and attention to our project this morning.

1 I'm responsible for looking after TransCanada's wind
2 development efforts, both here in the US and up in Canada.
3 Over the two and one-half years we've looked at something close
4 to a hundred wind projects, the furthest down in Arizona,
5 New Mexico, California, Oregon, Washington through the Dakotas,
6 Wyoming, and up here in the northeast.

7 Of all those projects, I would rate Kibby at the very
8 top of the list in terms of its potential. Kibby is an optimal
9 combination of wind resource, site, region, and market. Given
10 that potential, our goal of Kibby is to build a project that
11 all of Maine, but in particular this part of the state, can be
12 proud of and that demonstrates that doing the right thing for
13 the environment can be done without sacrificing one's core
14 values.

15 One point I would like to stress at the outset is
16 that we do a very conservative approach in our designs and
17 assumptions. We are therefore confident we can deliver on
18 these numbers, and there's still room for optimization later
19 during the final design state. We think this is a more prudent
20 approach than to have a very aggressive design at the outset.

21 I guess it's been just a little over two years since
22 we were last in front of you for a Mets application, so let me
23 spend a minute reintroducing you to TransCanada.

24 We are, as the slide says, a major energy
25 construction company focusing on pipelines and power

1 generation. We have approximately 25 billion in assets, we
2 have an A credit rating reflecting our strong financial
3 position. Importantly, a majority of these assets are
4 regulated federally, either by the FERC here in the US or the
5 National Energy Board up in Canada.

6 With regulated cost of service assets, our financial
7 strength is also durable and more stable than most countries.
8 We have over 50 years of experience building energy projects at
9 TransCanada, here in North America, and around the globe.

10 Corey Goulet, who most of you have met during the site visit,
11 is our vice president of energy projects in charge of
12 construction of all of our power projects, including the six
13 wind projects we're building in Quebec.

14 Corey's involvement early in the project guarantees
15 continuity from development through to implementation.

16 TransCanada has been active in New England since the
17 late 1980s and it is the base of our power generation business
18 here in the US. As some of you know, we own Portland's natural
19 gas pipeline, the Iroquois natural gas pipeline. As well, we
20 have over 500 megawatts of hydro facilities on the Deerfield
21 and Connecticut river systems. Less well known, the Ocean
22 State Power Plant is the project that TransCanada built and
23 still owns and operates. Ocean State was the very first
24 independent power project in the United States. We also have a
25 marketing office just outside of Boston.

1 New England is a good region for wind as well because
2 of the depth of the New England power market and the
3 availability of renewable energy certificates.

4 So why are we in Maine? We are here because it has
5 the best wind resources in New England, and of course wind is
6 the single most important variable for a wind project. Wind
7 drives energy production, and all the benefits from a wind
8 project flow from energy production.

9 Throughout this the developer benefits from energy
10 sales, the sales of the RECs, and the BTGs. We don't get any
11 of those benefits unless the wind project runs and spins. For
12 society, those benefits include the displacement of emissions
13 also only happening if the turbines are running.

14 From LURC's perspective, the strong wind resource has
15 two important benefits: The first is a reduced environmental
16 footprint, the second is a lower cost of energy. That lower
17 cost of energy means a more viable project less vulnerable to
18 changes in capital costs, energy prices, or the price of RECs.

19 Given the importance of the wind resource,
20 TransCanada has decided to share the Garrad Hassan report in
21 our application to provide third-party expert verification of
22 the wind resource.

23 I'll turn things over now to Nick Di domenico, the
24 project manager at Kibby, to talk about the wind resource and
25 the G. H. report.

1 MR. Di DOMENICO: Good morning. Garrad Hassan was
2 retained by TransCanada --

3 THE CHAIR: Just introduce yourself for Lisa, please.

4 MR. Di DOMENICO: My name is Nick Di domenico and I'm
5 the project manager on the business development side with
6 TransCanada Energy.

7 Garrad Hassan is probably the preeminent firm in this
8 field. They're been around since the '80s. We work closely
9 with Garrad Hassan on all of our Quebec projects. We're quite
10 familiar with how they undertake energy yield assessments.

11 We retained Garrad Hassan early on in the due
12 diligence phase of the project back in the middle of 2004. We
13 asked them to go through the previous Kenetech file and advise
14 as to what the likely nature of the wind resource would be at
15 this site given the historical wind record.

16 Post -- the diligence period, they also advised on
17 the wind measurement regime, so they advised on the number of
18 towers and location of the towers. As you're aware, we
19 installed three towers that measured wind; and finally, they
20 were retained to undertake an energy yield assessment that was
21 filed with this Commission as part of the file.

22 This is a slide many of you have seen numerous times
23 before. It's a wind map of New England pulled off the web.
24 The project area is in the boundary mountains in the vicinity
25 of the Quebec border. What's interesting is when you actually

1 go on-line, you can click on the project area and up it comes.

2 What is very clear is Kibby Range, the inverted
3 wishbone shows up. Kibby Mountain, with the tip of Kibby
4 Mountain being darker. The areas not developed, basically the
5 C and D ranges, Sugarloaf as well. What's also interesting
6 about this slide is the generally north/south line of the
7 ridges, and those are important just given the wind rose. What
8 these are wind roses from the two Met maps -- three Met maps at
9 the site, and what they show is the wind is predominantly from
10 the northwest. Not only is the wind predominant from the
11 northwest, but the strongest winds are from the northwest.

12 In an idea wind site, what you would have is winds at
13 right angles to the ridgelines, if you will. So if you had a
14 north/south ridgeline, you would want the winds constantly from
15 the west. This is as good as I've seen a wind rose relative to
16 a ridge alignment.

17 What this slide shows you is basically the power
18 curve for the Vestas V90, and that's the top curb. The bottom
19 curb is the General Electric 1.5sle. This type of turbine that
20 was used at Mars Hill, it's proposed for Stetson, and what the
21 slide shows is that wind speeds are important.

22 If you look at the range of wind speeds between 7 and
23 9 meters a second, and that's where you'll generally find
24 average wind speeds for most sites in North America, the slopes
25 are very steep, so there are very small increases in average

1 wind speeds result in significantly greater increases in
2 energy.

3 A reason that's important is when you compare the
4 Kibby site to a site that's 7.5 meters a second using a
5 1.5-megawatt machine, the comparison here is Stetson. The only
6 reason it's Stetson, it's something that the LURC is aware of,
7 it's an application currently before it. What you see is that
8 Kibby, on a per-turbine basis, was twice as energetic as
9 Stetson.

10 The reason that's important is that it reduces the
11 size of the footprint. Putting this another way is that to
12 produce the same amount of energy at Kibby [sic] with 8.5
13 meters a second, you need 88 turbines, or 1.5-megawatt basis,
14 versus the 44 at Kibby. Smaller footprint, smaller
15 environmental impact.

16 In brief, the Garrad Hassan report basically found
17 that each of the Met towers, the long-term average wind speed
18 were 8.5 meters per second, 10.1, and 8.9 respectively; it
19 found an average wind speed across all of the 44 turbine
20 locations of 8.5 meters per second; and it concluded that the
21 average annual energy production for a 44-turbine layout net of
22 all losses would be 355,000 megawatt hours per year.

23 With that I'll turn it back to Terry.

24 MR. BENNETT: TransCanada acquired the rights to the
25 Kibby site after a nine-month due diligence review in late 2004

1 and early 2005. We conducted a thorough review of the file of
2 the Kenetech project pictured here. As you can see, Kenetech
3 was a much more expansive project, involving over 600 turbines,
4 26 miles, and along eight ridgelines, which was permitted in
5 1994 I believe.

6 Let me stress that we do not believe for an instant
7 that because the Kenetech proposal was permitted that we
8 believe Kibby is somehow automatically approved. Quite to the
9 contrary. We fully appreciate that Kibby must meet all the
10 requirements of this Commission on its own merits, and we have
11 put in the time, resources, and effort to the that.

12 The fact that the Kenetech project was encouraging,
13 though, because it indicated that the site was permissible and
14 had local support. More importantly, the wind studies show the
15 strong resource, and the environmental studies revealed no
16 critical issues at the site.

17 As part of our review, we also met with stakeholders
18 in Maine, including the LURC staff, the PUC, environmental
19 groups, locate authorities. We were encouraged enough by the
20 feedback we heard to proceed with the project. We also
21 carefully reviewed the alternative site analysis conducted by
22 Kenetech back in the early 1990s. Don't forget, at that time
23 they had virtually the pick of their choice of sites across
24 Maine, and they picked Kibby as the No. 1 site. That
25 alternative site analysis was confirmed by TransCanada in its

1 own macro review of the state and New England.

2 We looked at mesomaps showing that -- Nick just
3 indicated -- showing the wind speeds across Maine and
4 New England approximately transmission and other issues that go
5 to the feasibility and viability of a wind project and
6 concluded that Kibby was indeed one of the best sites in Maine.

7 We've had an open and cooperative effort with the
8 environmental groups, as stated, Town officials and all
9 stakeholders involved in the Kibby project. Consultations with
10 these groups have resulted in site impact minimization, and
11 Lynn Gresock will talk about that later this morning.

12 Also because of these talks, we were able to reach a
13 conservation agreement. Under that agreement we committed not
14 to develop two of the four ridgelines that we have exclusive
15 wind rights to and to develop only the lower portion of Kibby
16 Mountain as you see depicted here, so the crosshatched sections
17 in green are the ones where we have foregone our rights, our
18 exclusive wind rights, up on the Kibby site.

19 We did that because of the higher environmental
20 values of those ridgelines and the greater impact from
21 construction that we would expect, given the steeper slopes
22 there. This was done despite the higher expected wind speeds
23 along those ridgelines.

24 We also agreed to contribute funds to help fund a
25 conservation program on high recreational values in the

1 Mahoosuc Mountain Range. I'll point out that this area is the
2 one chosen by environmental groups and not by TransCanada, and
3 I understand it's part of a larger package the State is
4 pursuing.

5 We have worked cooperatively with the local
6 communities of Eustis/Stratton from the beginning. TransCanada
7 believes strongly that the community closest to the project
8 should benefit directly from it. As discussed earlier, though
9 not required under the CLUP, a community benefit package does
10 go to the heart of the issue of community acceptance.

11 This package is in line with our wind projects that
12 we developed in Quebec in keeping with our overall corporate
13 philosophy of going beyond the minimum necessary and establish
14 TransCanada's name in the Maine community as a company that
15 wants to contribute positively to Maine.

16 Beyond those packages, the Kibby project provides
17 other benefits, including property taxes, which are estimated
18 to be over \$1 million per year, making Kibby the single largest
19 taxpayer in the region. There's also economic spinoffs from
20 the construction and operation of the project, and those are
21 detailed in Dr. Colgan's report, which we commissioned to
22 specifically look at the site at Kibby.

23 TransCanada has a hire local policy, and I'm happy to
24 say that in our wind projects in Quebec, we have exceeded by a
25 far margin our expectations in that regard. Corey has already

1 been down to Eustis and met with local contractors to discuss
2 project schedule and contractor qualifications.

3 All of these factors mean the Kibby project will
4 provide direct and meaningful benefits to the local community,
5 benefits beyond the wider environmental benefit of a clean
6 renewable source of energy.

7 Let me conclude by saying Maine has set high
8 standards for the development and approval of wind projects.
9 We believe we have met or exceeded those standards as evidenced
10 in our application as we will demonstrate to you over the next
11 two days.

12 Thank you.

13 MS. GRESOCK: My name is Lynn Gresock. I'm from AMEC
14 Earth & Environmental. I've been responsible for managing
15 consulting on this project. I'll talk about a little bit about
16 the project and how the project came to be in this location.
17 Let's just step back for a few moments to understand the site
18 and its context.

19 The site is located within the boundary mountains in
20 western, not far from the Quebec border. This is a fairly busy
21 graphic, but it shows where the overall project is in relation
22 to the site and surroundings. You can see the two general
23 ridgeline areas, Series A on Kibby Mountain, and Series B on
24 Kibby Range.

25 You can also see the 27.6-mile 115-kV transmission

1 line. This is the area that co-located with the Boralex
2 right-of-way, and then there's a small area along Route 27 that
3 is underground to receive from Bigelow substation. For
4 orientation purposes, here is Route 27, and here is the border
5 with Quebec.

6 On this particular map, the gold areas that are
7 highlighted are Tribal lands in the surrounding areas. The
8 areas that are shown in green are areas that were identified as
9 Park Preserves or Conservation land. This particular map also
10 shows peaks in the area, which are the small triangles shown on
11 the map. You can see that there are a number of high-mountain
12 areas in the vicinity. You can also see that the northwest
13 portion of Kibby Mountain, which is the tallest portion of our
14 project ridgeline showing an elevation of 3638 feet, is not
15 actually proposed for development.

16 Kibby Range shows a peak elevation of 3387 feet, but
17 the turbines actually proposed on Kibby Mountain, which is our
18 A series, and on Kibby Range, which is our B series, range in
19 elevation 2507 to elevation 3210.

20 Putting the site further into context, this map shows
21 the project location relative to the LURC jurisdiction, LURC
22 jurisdiction being shown in green. You can see from this map
23 that the site is approximate to Route 27, which is a major
24 State route through the area.

25 This overlay shows locations within 10 miles of major

1 roads, and major roads are defined as federal or State
2 highways. The Kibby project turbines, of course, range in
3 distance from Route 27, with the closest turbine being 1.2
4 miles away, and the one that is most distant, at about 7.7
5 miles. You can see 201 is here, located about 20 miles to the
6 northeast and that those two highways somewhat frame the site.

7 This next map shows locations that are within 10
8 miles of incorporated area. Eustis is the closest incorporated
9 Town to the project. The Town line is about 7 miles away, with
10 Eustis Village about 9 miles and Stratton about 14 miles'
11 distance.

12 There are also several areas in the vicinity that
13 aren't necessarily incorporated. This overlay shows locations
14 within 15 miles of sensitive survey tracks with a population
15 density of greater than 5 people per acre.

16 You can see that when all of this information is
17 overlaid on the map of Maine, the Kibby wind power project is
18 located in an area of LURC jurisdiction that is relatively
19 close to major roads, it's relatively close to incorporated
20 settled areas, and that there is an area of the LURC
21 jurisdiction that is further away from such features.

22 Although remoteness is a relatively subjective term,
23 this overlay provides a sense of overall context for the site
24 and the setting.

25 This next slide shows a closer view of the site and

1 the setting. Here is Route 27, with the Sarampus Falls rest
2 area shown just at the end of the image.

3 From Route 27 this property has a number of well
4 maintained forest management roads that are used not only by
5 those who work on the property, but by others who are traveling
6 through or to the area.

7 Gold Brook Road is the major road through the area,
8 and it tends to appear on maps, such as the DeLorme Atlas, and
9 even in some road maps of Maine.

10 Other roads at the site, such as Wahl Road, Hawk
11 Road, and Spencer Road also provide good access through the
12 area. The project has the ability to take advantage of
13 existing roads for turbine access to a great extent.

14 Let's look at the two series one at a time so we can
15 see them better. The B series is the closest to Route 27 and
16 has two access points. The primary access is off an unnamed
17 road directly off of Gold Brook Road. A secondary access will
18 be off the Wall Road, it goes around the side there.

19 The green on this map illustrates the various
20 proposed project elements. For the B series the project
21 includes a total of 27 turbines. Along the B Series turbine
22 elevations range from elevation 2507 to 3210, which is the
23 project's highest turbine elevation, with only four turbine
24 locations located above elevation 3000. In fact, seven of the
25 turbines are located at elevations less than 2700 feet.

1 Access for the A Series is off of Gold Brook Road
2 further north. There are two primary access roads to the
3 A Series turbine site. Several of the turbines can be directly
4 off of Spencer Bale Road here.

5 The other access to the A series is an unnamed road
6 directly off the Gold Brook Road. Again, the green areas show
7 the proposed new work. In the A Series there are a total of 17
8 turbines with elevations ranging from 2511 to 3134 feet. Of
9 those, six turbines are above elevation 3000 and five of them
10 are at below 2700 feet.

11 The higher elevation portion for Kibby Mountain that
12 are further north are not going to be proposed for turbine
13 installation. You can see, the Town line -- you can see that
14 the majority of the project is located in Kibby Township, with
15 just a couple of turbines located in Skinner Township.

16 About 17.4 miles of new road construction is
17 proposed. About 12.8 miles are associated with ridgeline
18 access and roads between turbines at elevations above 2700
19 feet, with the remainder at lower elevations.

20 The other green areas that you can almost see on this
21 map are reflecting various work areas, such as the Kibby
22 substation, the proposed construction management center, which
23 will become the permanent service center, and various laydown
24 and work areas.

25 The site is private property and active forest

1 management land. Even this particular base map, which was
2 shown by the property owner in 2005, shows extensive timber
3 harvesting. This is definitely an ongoing activity at the
4 site, and the level of commercial harvesting, both harvesting
5 at the site and using the roadways through the site, has
6 certainly been evidenced by the staff that we've had up there
7 conducting field investigations over the last three years.

8 This map is a Google Earth image from 2006. It's a
9 little bit more precise and it continues to show the active use
10 of the property for forestry.

11 The current owner allows open access by the public
12 with certain restrictions. Although the project area isn't
13 mapped as being within Park Preserves or Conservation Land, as
14 you were shown in the first slide, we are certainly aware that
15 most undeveloped areas within Maine have some level of
16 recreational use.

17 Because we felt it was important to better understand
18 the anticipated levels and types of use, as well as to get some
19 sense as to whether the project could be compatible with that
20 ongoing use, TransCanada undertook two different types of
21 recreational assessments.

22 The first focused on questions to local community
23 residents and business owners, as well as some identified
24 organization. As indicated in Tobey Williamson's testimony,
25 his anecdotal survey involved conversations with 24 local

1 business representatives in Eustis/Stratton, 20 local contacts
2 known to use the general area for recreational purposes, six
3 governmental and nonprofit organizations, people who had
4 contacted the project's toll free number, and referrals from
5 those originally identified for participation in the survey.

6 The conversations all used a consistent set of
7 questions, and the results characterized the area as moderately
8 used for recreational purposes. The most frequently mentioned
9 uses of the general area -- and this is more broad than the
10 project site itself -- were hunting, snowmobiling, fishing,
11 hiking, off-road vehicle use, camping, and sporting camps.

12 We were pleased to find that most people surveyed
13 felt that the presence of a wind project in the area would have
14 low or very low impact to those ongoing uses.

15 The second type of recreational survey was more
16 formal and focused on the site itself and uses occurring there.
17 Recreational uses and attitudes towards the proposed wind
18 project were generally consistent with the information gathered
19 from the local contact survey. One of the interesting things
20 we found was related to the traffic on the roads near the
21 turbine layouts.

22 When we conducted our on-site surveys, we used
23 traffic counting tubes to determine the level of use of
24 Gold Brook Road and spot surveys to not only determine what
25 types of vehicles were passing through the area, but where they

1 were going and why.

2 We were impressed by the amount of non logging
3 traffic currently using Gold Brook Road and at the number of
4 travelers using that road as a cut-through for destinations
5 further north. This use survey left us with a sense that the
6 project is much more heavily travelled by the local population
7 than we would have guessed based on the level of active forest
8 management at the site.

9 The Kibby wind power project is well suited for this
10 site, and this site is well suited for a wind project. The
11 roads associated with the project will be similar in character
12 to the existing Gold Brook Road; the turbines will occupy a
13 small portion of forest management land within the existing
14 property.

15 The property owner will be compensated for the
16 acreage used by the project under existing development
17 agreements, and the project will coordinate with the landowner
18 during construction so that ongoing forest management can
19 continue with as little interference as possible.

20 Once the turbines are erected, very little daily
21 activity will be associated with the project and very little
22 impacts will be felt by the traditional working forest used at
23 the site. The presence of the project at the site will also
24 not result in any new restrictions and existing uses by others
25 allowed by the landowner except for the fenced area around the

1 substation.

2 Noise modelling that has been completed shows very
3 low levels of sound at the nearest residential receptor, which
4 is 1.2 miles away. The noise modelling contours provided in
5 the application indicate that sound levels drop off very
6 quickly surrounding the turbines and continue to reduce
7 significantly with distance. Jean Vissering will talk a little
8 bit later about visual impact analyses that have been to
9 demonstrate that views from public locations will be extremely
10 limited.

11 Following construction the project will not result in
12 significant community impacts on local roadways or services.
13 The minimal effect on existing site uses and on the
14 surrounding, combined with the relatively small footprint of
15 the project -- a total of about 89 acres of permanent impact
16 with only about 29 of those above 2700 feet -- support the
17 project compatibility with the proposed location.

18 We'll now hear from Don Hudson, who will discuss some
19 of the particular characteristics of the areas about 2700 feet
20 and the extent to which the Kibby site reflects those
21 characteristics.

22 MR. HUDSON: Good morning. My name is Don Hudson and
23 you have my prefiled testimony, as well as my curriculum vitae.
24 I currently serve as the president of the Chewonki Foundation
25 in Wiscasset, and I'm here today to testify as a private

1 individual.

2 I have a good deal of experience in forest ecology
3 and alpine biology ecology, and specifically the plant biology
4 and ecology of mountains in Maine in similar areas in the
5 subarctic and the arctic. I have conducted inventories of
6 birds in undisturbed forests of old growth in Baxter State
7 Park, the Bigelow Preserve, and Mahoosuc Range. That work also
8 included the survey and documentation of subalpine forests and
9 alpine areas.

10 In preparation for my testimony today I have reviewed
11 the application for TransCanada for the Kibby wind power
12 project, and I have viewed the area proposed for development.

13 As I mentioned in my prefiled testimony, based on a
14 review of the application and my visit, and in light of
15 experience in the mountains of Maine, this area does not have
16 the attributes more typical of high elevation areas in Maine.

17 The forests at Kibby Mountain and Kibby Range have
18 different characteristics and values than those that are
19 typically associated with subalpine forests. The slopes of
20 these foothills are gentle, they are not as steep as those of
21 the mountains in Baxter, the Bigelow Preserve and the Mahoosuc
22 Range, for example.

23 There are virtually no outcrops or exposed ledges,
24 and there are no bare summits with associated alpine
25 vegetation. I found that the forest vegetation has a greater

1 affinity with lower elevation forests than that typically found
2 in Maine's higher mountains. These woods are typical of the
3 northern coniferous forests of the region.

4 The subalpine forests of the mid and upper elevations
5 of Baxter, the Bigelow Preserve, Mahoosuc Range, Saddleback and
6 a number of other mountains in Maine are dominated by balsam
7 fir with a scattering of red spruce, birch, and mountain ash
8 for the most part.

9 The Maine Natural Heritage program's classification
10 of ecosystems in natural communities in Maine defines subalpine
11 forests as those generally occurring above 3000 feet. This
12 forest type has a fragile canopy. Wind damage is common and
13 the canopy appears ragged as a result.

14 Windthrow can cover acres of ground. Typically you
15 can determine the direction of the prevailing wind simply by
16 looking for dramatic flagging in the treetops: Short branches
17 at the top are all bent away from the direction of the wind.

18 The fragile character of this subalpine forest is
19 reflected in the mortality in the standing canopy, tree that
20 have died as a result of combination of harsh environmental
21 conditions in the local climate and on the ground.

22 The forests at the upper elevations of the area in
23 question are dominated by balsam fir and red spruce, the
24 structural features associated with wind damage are not
25 apparent.

1 In fact, the firs at the top of Kibby Mountain and
2 Kibby Range are not flagged, and there's little windthrow or
3 blowdowns. When I was walking on the mountain, I note the
4 upper boundary between a mid elevation forest and the subalpine
5 forest by a change in the species composition in particular.
6 The evidence of historical forest management most often
7 disappears at the same point on the landscape.

8 Stumps left by prior cutting operations generally
9 disappear on mountains in Maine at the same point at which the
10 combined topographical and vegetational characteristics of the
11 subalpine zone are encountered.

12 Ultimately the slopes are too steep, the soil too
13 thin, and the trees too short and spindly, and make harvesting
14 them an economical loss. But here they were harvested clear to
15 the ridgeline.

16 On Kibby Mountain and Kibby Range, broad-leafed
17 species like maple and birch stand farther up the slopes than
18 they do the elsewhere in my experience, well beyond 2700 feet.
19 In addition, I did not see the degree of mortality amongst the
20 timber that I have come to associate with classical subalpine
21 forests. There has been vigorous and complete regeneration in
22 these ridge top forest since the removal of the original fir
23 forest many decades ago.

24 These ridge tops exceed 2700 but they do not exhibit
25 the characteristics of the subalpine forests that often occur

1 at even lower elevations on the slopes of Maine's more rugged
2 steep and exposed grounds. The limit of 2700 is a very good
3 point at which to begin discussing special mountain values from
4 the perspective of a forest ecologist in determining the
5 relative and comparative ecological values.

6 The 2700 feet should not be thought of as an absolute
7 value. If we were discussing the Bigelow Range, for example,
8 2400 feet is the point at which the special values that I
9 envisioned by the P-MA designation can be found. In Baxter on
10 the Owl Barren, the wind regime on the slopes of Mount Coe, and
11 on several other mountains, as well as on some slopes in the
12 Mahoosucs, those values may be found as low as 1800 feet.

13 As some of you know, I have argued before this
14 Commission in the past that the very fragile nature of the
15 subalpine on Saddleback be taken into consideration when
16 considering a proposal for the expansion of the ski area.

17 There the steeper slopes and sharp ridgeline create
18 the landscape features that I envisioned -- and I think the
19 P-MA. That is precisely these sorts of landscapes, dramatic
20 views that have attracted people to the mountains of
21 New England. Recreation has evolved in Baxter, the Bigelows,
22 the Mahoosucs, and Saddlebacks, and dozens of other mountains
23 in Maine because of these values.

24 As I mentioned earlier, the forests of Kibby Mountain
25 and Kibby Range have mixed vegetation, more characteristic of

1 lower elevation forests. The development proposed for these
2 ridgelines does not compromise the sorts of high mountain
3 values that are traditionally associated with other mountains
4 in Maine.

5 Considering topography, elevation, and forest types,
6 this area might be more properly considered as foothills. They
7 are unlike the steep rugged and exposed slopes that I believe
8 represent the characteristics that the P-MA district is
9 intended to protect.

10 MS. VISSERING: Good morning. My name is Jean
11 Vissering and I prepared a visual assessment for the Kibby wind
12 power.

13 I'm going to begin briefly by taking a look at this
14 outline of the methodology for assessing visual impact. I
15 believe strongly that a good methodology will help sort out
16 what are the important visual resources in an area and it will
17 identify how the proposed project will affect those resources,
18 those specific resources, as well as the region as a whole.

19 You should be pretty familiar by now with the
20 project. In terms of visibility, that's a fairly
21 straightforward piece of the process to identify. We used a
22 50-mile radius study area, even though the likelihood of this
23 significantly is unlikely beyond 10 miles, but in this case we
24 felt there was significant scenic resources beyond 10 miles.

25 There are established methods for identifying visual

1 character and for identifying the specific scenic resources and
2 their relative sensitivities which is important.

3 I'm going to be discussing these as I go through my
4 presentation. I'll also talk about some of the key factors
5 affecting the impact assessment. When there are mitigation
6 measures that can be used to reduce visual impacts, if they are
7 determined to be excessive, I do not feel that that is the case
8 here. As you know, my conclusions are that this is a very well
9 sited and designed project and that although it will have some
10 visual impacts, that they are very reasonable and will
11 certainly not rise to the level of undue.

12 This chart outlines the factors that I consider to be
13 very important in assessing visual impacts. I don't expect you
14 to read this chart. I'm going to be coming back to it, and I'm
15 going to be referring to the six variables on the left-hand
16 column, the documented significant scenic quality, viewer
17 expectation, uniqueness of the resource, duration of view, and
18 proximity -- the project as I described some of the viewpoints
19 around the area.

20 Looking at a map of the Kibby area, this illustrates
21 the 15-mile radius. We have Stratton down here, Route 27,
22 which is the only State highway from which there are views
23 other than the transmission line at 15. Of course, there's the
24 two projects, the Kibby Mountain or A series; Kibby Range, the
25 B Series with that distinctive wish bone shape which

1 interestingly actually helps significantly to reduce visibility
2 of the project.

3 The crosshatched, the blue crosshatched areas are
4 lakes and ponds. And this is a -- oh, I should point out that
5 the dots are areas where we found views, actually relatively
6 few views throughout this area.

7 The green shaded areas are all potential views
8 indicated on our viewshed analysis of the project. Now, of
9 course, because they're forested, all of these green areas, the
10 chance of views are very minimal. The places where you find
11 tan shading are generally open areas, such as lakes and ponds
12 where there is the potential for view, although in many cases
13 it turned out as we looked at these -- they have to be field
14 verified -- there were actually very minimal views because of
15 foreground trees; or the other aspect of a viewshed analysis is
16 even if there's the tiniest little tip, an inch of the turbine
17 blade that would be visible behind the landform, it shows up as
18 visible, and we did note several places where that was true.

19 The other thing I want to mention on this map is you
20 will see that this is area very well endowed with lakes and
21 ponds; there are very many of them, and actual visibility from
22 very few of them. If you look at the area up in the very kind
23 of northern and northwestern parts, those are probably some of
24 the more remote ponds with very little visibility.

25 So I want to begin looking -- starting with the

1 project site and its immediate surroundings. I'm going to take
2 a look at the Kibby Mountain fire tower, and then we'll look at
3 Route 27. Some of the lakes -- views from lakes and ponds, and
4 residential areas.

5 You may remember this view of the Kibby Range as we
6 were descending down Gold Brook Road, which is of course a
7 private logging road running alongside the two ranges. I think
8 this is a characteristic view and illustrates that these
9 mountains are relatively low, wooded, generally quite
10 indistinct in their form.

11 Similarly, you may remember this view when we were in
12 the midst of turbine sites and illustrates well the sort of
13 generally kind of rounded character of the -- this would be the
14 A Series ridgeline at the southern end along Spencer Bale Road.

15 Up on the northern end, this was another stop on the
16 site visit. Also we were looking towards the various ridges,
17 and this is sort of typical of the profile, very indistinct,
18 gently rolling.

19 You'll also remember from that northern end of Kibby
20 Mountain where we stopped, we had a glimpse up at Kibby
21 Mountain itself, and this would not be developed as part of the
22 project.

23 There is a fire tower on the top, a trail leading up.
24 It's a short, relatively short trail, a little Jeep trail, but
25 this is not -- it is a trail that is not heavily used nor is it

1 part of protected land. Nevertheless, it is proximate to the
2 site, and of course we felt that it is clearly a sensitive site
3 that needs to be assessed. So this is one of the viewpoints
4 that we developed a simulation for.

5 This is one of the few viewpoints where you can see
6 the entire project. It's also one of the only viewpoints where
7 you will be able to see project roads. Now, some of the roads
8 that you can see in here, such as down on this end. In the
9 clearer version of this photograph you can see some roads down
10 there, they're not part of the project, they're part of
11 existing logging roads.

12 From the top of Kibby Mountain you get views around
13 to different mountains. There are two other mountains from
14 which there could be views of the Kibby Range that have fire
15 towers on top and therefore potential views. One is Tumbledown
16 Mountain, it's about 4.5 miles away. Tumbledown is, by the
17 way, not the Tumbledown Mountain that is mentioned in the
18 hiking guide books, it's a different one.

19 The other one is Snow Mountain. I don't have the
20 shot here. Snow Mountain is about 6.5 miles away, but it's
21 on -- but I believe it's on Penobscot land.

22 So looking at Route 27, you probably recall driving
23 on Route 27 we saw many different mountain ranges -- mountain
24 ridges. Very few of them were Kibby. One of the -- generally
25 we saw quick glimpses of the project ridge and always Kibby

1 Range. Kibby Mountain is very hard to see from anywhere except
2 up close or very far away.

3 This is one of the views of longer duration and even
4 it is fairly short, but you're looking at probably a maximum of
5 10 turbines at this location, and then you'll remember stopping
6 at the Sarampus Falls rest area, where there is a scenic view
7 of the waterfall, and the turbines would be seen to your right.

8 There would be somewhere between two, possibly up to
9 five, views behind trees. This is the southwestern prong of
10 the Kibby Range coming out here near the falls.

11 We went off Route 27 and overlooked Natanis Pond.
12 There would be no views from that overlook. As we look at some
13 of the lakes and ponds in the area, I mentioned that the area
14 is very well endowed with lakes and ponds. From many of them
15 there will be no view, in fact, from most of them, especially
16 from the Class 1 lakes and ponds which are identified in the
17 CLUP as among the most inaccessible, probably therefore remote.

18 We focused on the Class 2 ponds noted in the CLUP
19 appendix because they're identified as being high value,
20 accessible, and relatively undeveloped. I think in the CLUP it
21 says undeveloped, but in fact all of these had some camps
22 around them.

23 Of the eight Class 2 ponds in the study area, we
24 found four from which there would be visibility. One of these
25 we considered extremely minor, Tim Pond, because it was over 10

1 miles away and also the visibility was so minimal on a tiny
2 portion of that pond.

3 Chain of Ponds is one of the more proximate. At
4 minimum, at the very end, as you know Chain of Ponds is a
5 series of ponds. From the upper end, Natanis Pond, where
6 there's a beach and campground, this is one of the areas where
7 there would be the tips of one or two turbine blades seen over
8 that little ridge on the left.

9 As you continue down the ponds, the views remain more
10 or less the same until you get down to the very end and then
11 you get down to Lower Pond and there you would potentially
12 begin to see the tops of a few turbines there, though most
13 likely they're going to be blocked by trees.

14 From Jim Pond there are more extensive views around
15 Jim Pond. You can see the Kibby Range through behind
16 foreground ridges, you can also see Snow and Round Mountain
17 from around the pond.

18 It is -- this simulation is typical of views that
19 would be seen around the pond, and also we know there are two
20 or three camps that are on the pond that would have views
21 similar to this. This is the eastern pond extending towards
22 Jim Pond, and here you see 10 to a maximum of 12 turbines.

23 Now, of course, Flagstaff Lake is one of the major
24 recreational focal points in this area. The views tend to be
25 between 10 and 20 miles away. It's a very large lake.

1 This is one of the more proximate views from the
2 causeway on Cemetery Road, which is the northern end of the
3 lake. It's probably a quick glimpse for anyone driving along
4 there, but people do stop and fish.

5 More typical of the views as you're boating around
6 the lake, those distant ridges tend to come in and out of view,
7 mostly out of view, along with many of the boundary mountains
8 often hidden behind these foreground hills or foreground
9 vegetation.

10 From the campsites around the Bigelow Preserve,
11 they're largely blocked by foreground trees. This was a
12 low-water time of year, obviously. There is one campsite, the
13 Safford Brook campsite, from which there would be views of the
14 project at about 17 miles away.

15 There would be no visibility from the Cathedral Pines
16 Campground or from Myers Beach, two popular areas. This is
17 clearly -- around Flagstaff Lake -- one of the dramatic views
18 that you do tend to be focusing on.

19 In terms of residential areas we know that the
20 closest residence is 1.2 miles from the project. We can't go
21 on private property. We pointed out residences as we drove up
22 Route 27. It looked wooded but we don't know what their views
23 are.

24 We do know that there are relatively few residences
25 and camps in the vicinity of the project. The place with the

1 greatest residential concentration is Eustis Ridge. Most of
2 the roads and houses on Eustis Ridge are on the south side of
3 the ridge, they're oriented towards the Bigelows and the
4 Longfellows, but there is one road, Porter, to the north side
5 of that ridge. We identified two or three properties that
6 would have a view similar to this.

7 We had a couple of open houses and I would always be
8 asking people, what should we go look at? Where are the views
9 of the project? And what's important to you?

10 This was a view that was identified to us on
11 Flagstaff Mountain Road. There is an opening where there's
12 views for Flagstaff Lake, but also Kibby Range and part of
13 Kibby Mountain at about 11 miles. It's one of the few other
14 places along the road where you can see the project.

15 The Appalachian Trail is 17 miles away at the closest
16 point. We did prepare simulations from Avery Peak. Just to
17 illustrate how the views would look, you can see that these
18 two, the turbines would be seen with the backdrop of the more
19 distant boundary mountains, and I think probably one of the
20 relevant visible factors here is the dominance, as a focal
21 point, of Flagstaff Lake and the views.

22 Okay, I apologize but I need to refer to this little
23 graph that was handed out during the Black Nubble hearings
24 because it did mention Kibby, and unfortunately I felt it was
25 extremely deceptive.

1 I mentioned that in describing a visual assessment
2 process, it helps to sort out the important variables from the
3 irrelevant. And by focusing on one sort of numerical measure,
4 you are arbitrarily pulling something out of the hat that may
5 or may not be relevant, and usually one variable is not
6 relevant by itself, you need to be looking at a number of
7 different variables.

8 So, for example, if we look at -- if you can
9 remember, it's true that we may be more proximate to a rest
10 area and we're certainly proximate to a scenic highway;
11 however, if you recall those views, the view from the rest area
12 behind evergreen trees, and then very quick occasional glimpses
13 along Route 27. Of course, the views along the Chain of Ponds,
14 which is the water body we assume is being referred to here,
15 the view is very minimal.

16 So I think that the issue here is being very careful
17 about using a single variable, and the problem, the larger
18 problem, is missing the bigger points of viewer sensitivity
19 levels looking at a roadside where you have perhaps an
20 environment of cars and trucks, some development, as part of
21 that context as opposed to, for example, a National Scenic
22 Trail.

23 Now, I want to return to this chart. If we look at
24 the six variables, this project would have minimal impacts
25 looking at all six variables. There are no scenic or

1 recreational areas that are unique or State or national
2 significance within the surrounding area. The visibility from
3 Class 2 lakes and ponds and from the scenic byway are
4 relatively minimal.

5 One could fairly say that this is a scenic area, but
6 it does not rise to the level of outstanding, an outstanding or
7 unique scenic resource. The major visual focal points, of
8 course, are Flagstaff Lake and perhaps the Bigelows at the edge
9 of the study area, and in terms of the use of the area, there
10 are the uses -- aside from Flagstaff, they tend to be very
11 dispersed, very diverse, a number of different interests in
12 terms of recreational land and mostly on private land.

13 In general, views of the project are short duration,
14 they occupy -- they're a very tiny part of the project, and/or
15 they're seen at a considerable distance.

16 So in summary, there will be visual impacts but none
17 would reach the level of undue. The project would not
18 dramatically change the character of the area nor would it
19 block significant views. There certainly would be some
20 modification of the ridgeline, but the views of roads are seen
21 from only one location.

22 Now, I've had the opportunity to -- we will be
23 handing out this so you can read this in the future -- I've had
24 the opportunity to view many wind sites throughout New England,
25 and this one is unquestionably one of the best sites for wind

1 energy projects that I've seen from a visual perspective.

2 MS. CINNAMON: Thanks very much, Jean. My name is
3 Christine Cinnamon, I'm the environmental manager for
4 TransCanada. I've been responsible for the regulatory
5 submissions, the environmental due diligence related to the
6 development of the Kibby wind power project.

7 We have worked very hard as a team to both understand
8 and minimize impacts to natural resources in the project area.
9 From very early stages of project development, we communicated
10 with environmental experts engaged on the project our
11 expectation for an optimized layout that would be
12 constructible, not just according to what the agencies required
13 but also that reduced impacts to the greater extent possible.

14 This involved constant communication between the
15 environmental and engineering team and requires an immense
16 amount of work upfront prior to even submitting an application.

17 Despite the time and effort involved, TransCanada is
18 committed to developing projects in this manner given our
19 success using this method and the positive feedback we've
20 received using it in other jurisdictions.

21 Our application indicates very conservative estimates
22 of impact, and it allows us to be able to say that we can
23 develop the project with actual impacts that would be less than
24 what we've accounted for in the application. It's been very
25 important to us -- again it's the TransCanada philosophy -- to

1 meet with agencies and stakeholders early and often through the
2 development process to understand and address concerns upfront.
3 We're committed to ongoing consultation through all development
4 phases of the project.

5 The application and information before you today is a
6 result of the consultation and the development efforts. We are
7 convinced that the minimized footprint and resulting impacts
8 are not unduly adverse. Lynn will now talk to you about the
9 minimized environmental footprint.

10 MS. GRESOCK: Again, I'm Lynn Gresock from AMEC. I
11 am the project manager for the project, environmental
12 consultant effort. Also with me is Dana Valleau from CRC, who
13 has worked closely with me and has led the project field
14 efforts.

15 My work supporting TransCanada on the Kibby wind
16 power project began in the fall of 2004 during feasibility
17 review for the project. I've continued to provide management
18 of the environmental consulting services provided for the
19 project since that time and have worked closely with
20 TransCanada, regulatory agencies, and technical specialists to
21 ensure the project was well sited and designed and that
22 appropriate studies to fully understand the potential for
23 impacts are undertaken.

24 In summarizing the way in which the project has
25 minimized the potential environmental footprint, I'm speaking

1 not just for myself, but on behalf of the numerous technical
2 specialists who contributed to the project study.

3 Not only have we utilized numerous internal and
4 external specialists, but we've coordinated closely with State
5 and federal agencies, including LURC, IF & W, the Maine soil
6 scientist, MNAP, DEP, the US Fish & Wildlife Service, and the
7 Army Corps of Engineers.

8 In many instances professionals from those agencies
9 have not only contributed to review and input on protocols and
10 technical studies, but have joined us in the field to
11 experience and contribute to the investigations real-time. For
12 all of their contributions, we thank them.

13 We worked hard to optimize the project layout and
14 footprint for environmental, engineering, wind resource
15 conditions. Access for the project has been designed to
16 utilize existing logging roads to the maximum extent possible,
17 both for the turbines and along the transmission line.

18 Siting for additional turbine access has thoroughly
19 considered elevation, ground conditions, and environmental
20 issues to ensure that locations for access roadways and other
21 project features will result in the least possible cut-and-fill
22 or other resource impacts.

23 The project engineers have worked closely with the
24 environmental team, and we've engaged in a iterative process
25 that continually pushed to minimize environmental impacts at

1 the site. You'll hear more about that later from Corey Goulet.

2 Extensive engineering and environmental studies have
3 been completed, and numerous hours have been spent optimizing
4 the location and design of the project. Throughout this
5 effort, TransCanada has consistently directed us to conduct
6 thorough investigations of truly framing issues and impacts
7 associated with the project.

8 Although there are many details of work that has been
9 conducted, I don't have a lot of time, so I'll make an effort
10 to address a pretty high level some key ecological issues that
11 had been raised with the project. A lot of additional
12 information is available in the written materials, and
13 questions, of course, are welcome.

14 Potential impacts to birds and bats are a key concern
15 for wind power projects. We were pleased to have avian study
16 information available to us from the former Kenetech project as
17 a starting place for understanding the nature of the area as a
18 scope for additional studies.

19 We worked closely with LURC, IF & W, and US Fish &
20 Wildlife Service to develop protocols for and to implement
21 studies that would provide meaningful information for the
22 assessment and the decision making process.

23 Because many of the agency personnel had actually
24 been involved in the Kenetech project, there was a high degree
25 of familiarity with the study through the former results. The

1 agencies were also familiar with the studies that had been
2 conducted on behalf of the Maine Mountain Power project, which
3 continued verifying their sense of what types of studies worked
4 well in determining whether a different project area was
5 significant from an avian perspective.

6 Also, many of the interested folks have been
7 participating in discussions with various stakeholders with
8 regard to developing potential protocol standards for
9 assessment of wind power impacts on birds and bats. All of
10 this provided a good context for our initial discussions.

11 When assessing the suitability of the site for wind
12 power, it's important to understand the extent to which
13 migrating birds fly through the area. At a big picture level,
14 this historical information that can be reviewed to see whether
15 a given area as mapped is a major migratory corridor, which
16 this area is not but that only takes you so far.

17 Although individual species might follow a particular
18 migratory corridor, in general birds migrate in broad fronts
19 influenced by seasonal weather patterns.

20 So in conducting site-specific studies, you would
21 typically want to understand the number of migrants passing
22 through a given area, the direction they're flying, and the
23 height that they're flying in order to gain an understanding of
24 current use.

25 The wind power industry has continued to make

1 technological changes since the early days that continue to
2 reduce potential avian impacts. No longer are wind turbines
3 designed with lattices that would attract perching, guy wire
4 use is avoided, and considerable work has been done to balance
5 the need for safety lighting for avian risk issues. These
6 days, as Professor Wilson noted in his testimony, concern is
7 much more focused on bats, as documented avian impacts have
8 continued to be relatively low.

9 All that being said, there's still a need to
10 understand whether a particular site poses a unique or unusual
11 risk to birds. The radar studies we conducted for this project
12 have several particular goals based on agency input: To gather
13 ridgeline data, to understand the targets that passed through
14 the areas where the turbines were proposed, to gather some
15 valley data as a snapshot to better understand how the migrants
16 might be travelling through the area -- for example, do they
17 mostly fly through the valleys or are they flying in both
18 areas -- and to select radar locations that captured avian
19 decision points to the extent possible to determine how the
20 flight patterns might be influenced by complex topography in
21 the area, and also important was considering the saddle areas
22 that exist in the various mountains might act as shortcuts that
23 the birds use on their migration.

24 Because their radar surveys can't identify what the
25 migrants are, we were also asked to add a daytime migrant study

1 during each season in order to give an indication based on
2 species presence of what particular species might be migrating
3 through during specific periods. Certain species tend to
4 migrate during the day. Raptors are the primary daytime
5 migrants, along with community species that migrate in flocks,
6 such as the Canada geese.

7 The former Kenetech had characterized daytime
8 migration as well, and we were also asked to conduct similar
9 surveys for both fall and spring seasons.

10 In general we found the results very consistent with
11 the former Kenetech studies. As expected, the number of
12 migrants to the area is much higher in the fall than it is
13 during the spring when numbers are naturally depleted due to a
14 variety of factors.

15 Based on forest seasons of data collected at the
16 site, daytime migrants do tend to follow the stream valleys and
17 the numbers do not indicate this is a unique or heavily
18 utilized migration pathway.

19 Nighttime migrants appear to be crossing the area in
20 a broad front, passing over ridges and valleys in similar
21 volumes. Our more recent studies also indicate that the
22 migrants are flying relatively high over the area, the majority
23 of them well above the height of the proposed turbines.

24 The results our morning migrant surveys did show some
25 species peaks providing a sense of which night migrants might

1 have been travelling through the area at given points within
2 the migratory season.

3 Our daytime migration study indicate a certain
4 ridgeline within the project vicinity, such as the northern
5 portion of Kibby Mountain, that were more frequently used and
6 crossed by raptors. These areas of highest use have been
7 avoided by the project.

8 When considering the potential for impact,
9 understanding this information doesn't tell the whole story,
10 certainly factors like the very small surface area of the
11 turbines relative to the flyway, the potential for avoidance
12 behavior, and also the changes in migration patterns that will
13 occur year to year all influence avian risks.

14 We plan to work closely with IF & W's technical
15 expert to develop a post construction monitoring plan that
16 provides a meaningful way to confirm that the impacts are
17 acceptable and establish appropriate response measures for
18 unanticipated impacts.

19 As I already noted, bat behavior is much less well
20 understood in relation to the wind turbines. When we had our
21 initial agency meetings, it was requested that we wait to
22 contact our bat monitoring until the Met towers were
23 constructed at the site.

24 Catalog the measurements to be at locations high
25 enough to more truly represent the actual turbine heights, and

1 as we detailed in the application, we found very little bat
2 activity occurring at the site. This was consistent with our
3 general understanding of the overall habitat study at the site.
4 Windy, high elevation coniferous forest with few large water
5 bodies, and significant bat impact is not anticipated.

6 The potential for Bicknell's thrush habitat to be
7 affected was also an initial agency concern. Bicknell's thrush
8 species are recognized by Maine as a species of special concern
9 due to their specialized habitat requirement.

10 In Maine they're distribution is known to be impacted
11 with sensitive spruce-fir forests within high elevation areas,
12 and the species was observed on portions of Kibby Mountain not
13 proposed for development during fall migrations surveys in 2005
14 and possibly in the earlier Kenetech studies, as well, although
15 Bicknell's thrush wasn't treated as a separate until 1995.

16 In order to determine if suitable breeding habitat
17 exists in the project development area, a detailed summer
18 breeding survey was conducted to identify Bicknell's thrush in
19 the area to affect habitat and to estimate potential population
20 density of the species.

21 Bicknell's thrush were not found breeding in the
22 project construction area, and although dense fir stands are
23 found in the project area, none were determined to be large
24 enough to support a Bicknell's thrush territory.

25 It has been suggested that the project in this

1 location would preclude potential future use of the area by
2 breeding Bicknell's thrush. In order for suitable Bicknell's
3 thrush habitat to develop at the project site, a significant
4 area of blowdown in existing areas of spruce/fir forests -- at
5 least several hectares in size -- would have to occur.

6 The relatively narrow and leaner nature of this
7 project and the relatively small permanent footprint on the
8 ridges makes it unlikely that the presence of the project would
9 affect the development of these conditions in the future.

10 The potential for northern bog lemming habitat was
11 also considered for the project. Northern bog lemmings rely on
12 habitat specifically that includes wetlands where the ground
13 cover layer dominated by sphagnum moss. They are
14 difficult to identify, and in fact, can't be distinguished from
15 other bog lemmings without examining their skulls.

16 Working with IF & W, it was determined that a
17 trapping study beyond the one that had been conducted by
18 Kenetech wasn't appropriate. If the species are located there,
19 we didn't want to kill them. Instead we focused on habitat
20 identification while doing the other on-site surveys.

21 Only one area was identified that appeared to be
22 suitable northern bog lemming habitat, which is on the westerly
23 Series B ridgeline. You can see it in the orange areas here.

24 This area is made up of a series of hydrologically
25 connected wetlands that have a dominance of sphagnum moss as

1 ground cover. Based on a review by IF & W, both of plans
2 during the meeting and in the field, the layout was revised.
3 You can see that the layout used to go through this area, and
4 now is here, eliminating a road and a couple of turbine
5 locations to avoid not only the habitat areas but a sub
6 watershed area that supports the wetlands complex, this 26-acre
7 area here shown in black and white.

8 The preservation area includes both upland and
9 wetland and is intended to not only protect the habitat but to
10 make sure the hydrology feeding this potential habitat area is
11 not altered.

12 During our initial consultant with MNAP, we noted
13 that a portion of Kibby Mountain extending into the area was
14 mapped as fir-heart-leaved birch subalpine forest, which the
15 original mapping area is shown here in purple.

16 This type of community is State ranked as S-3, which
17 is defined as a rare community in the state with roughly 20 to
18 100 occurrences. Although rare within the state as a whole,
19 this community type is relatively common in cold windy high
20 elevation areas of the state.

21 However, our field studies did not indicate this
22 community within our project footprint. We requested that MNAP
23 conduct a site visit to make a determination. Based upon that
24 visit, MNAP resized the state mapping, and you can see that in
25 the U shape, the pinky-orange area. Although the very northern

1 portion of Kibby Mountain still has that mapping designation,
2 no portion of the project was within that subalpine habitat.

3 MNAP also looked at the numerous occurrences of
4 boreal bedstraw, which is a State-listed species of special
5 concern ranked at S-2 that we have identified on our ridgeline
6 wetlands.

7 An S-2 classification indicates a species is
8 considered imperiled in Maine because of rarity, six to 20
9 occurrences, or few remaining individuals or acres, or because
10 factors make it vulnerable to decline.

11 On Kibby Mountain, boreal bedstraw was identified in
12 23 patches in two general wetland areas, and on Kibby Range it
13 was identified in over 50 patches, mostly in small seeps
14 wetlands. None were located in summit areas of the site and
15 because the species occurs in wetlands, impacts to those areas
16 have been largely avoided.

17 With only about 1/10 of an acre of wetlands that
18 became boreal bedstraw currently proposed for impact. This
19 particularly unavoidable impact is associated with the primary
20 access for the A Series, which requires a switchback in order
21 to appropriate grading and curve radius. It's not certain that
22 the plant itself would be impacted, but even so, MNAP has
23 determined that this level of impact would not have a
24 significant effect on overall community viability.

25 Wetland avoidance has been a priority for the project

1 as well. We worked closely with LURC, the Maine soil
2 scientist, and Army Corps, and DEP to assure consistent
3 delineation approach for wetlands resources, extensive field
4 effort has been involved in the full delineation of resources
5 not only along the ridgeline, but 27.6-mile transmission
6 right-of-way as well.

7 Direct wetland and stream impacts have been largely
8 avoided. The unavoidable impacts reflected in the current
9 preliminary layout and design total less than one and one-half
10 acres. Of that total, less than 1/10 of an acre of impact was
11 in wetlands designated as P-WL-1. This is associated with
12 turbine access.

13 Other turbine access impacts to wetlands include a
14 total of 9/10 of an acre of P-WL-2 and about 4/10 of an acre of
15 P-WL-3. These are all very small individual impact areas that
16 just affect the edge of larger wetland systems and would not
17 affect the overall function and value of the wetlands.

18 Wetland impacts associated with the turbines
19 themselves are very, very small, varying from P-WL-2 and -3,
20 again, associated with encroachment to the very edge of larger
21 wetlands systems. No direct wetland impacts are associated
22 with the collector lines or other wind turbine features.

23 The transmission line has also substantially avoided
24 direct wetlands impact. Along its entire 27.6-mile length, no
25 P-WL water is impacted and the total of P-WL-2 and -3 combined

1 are significantly less than 1/10 of an acre. Detailed measures
2 have been identified in the application to avoid indirect
3 impacts due to erosion and sedimentation as well.

4 I understand that during the Black Nubble proceeding
5 charts were presented that compared the Kibby and Black Nubble
6 projects. Like Jean, I'm concerned that the information
7 presented could be misleading and in general I don't believe
8 comparisons should be viewed lightly.

9 There are just a couple of points I wanted to
10 discuss. The first, resource presence doesn't necessarily
11 translate to significant impact. For example, with 155
12 wetlands located in our transmission line corridor, 96 of them
13 in LURC jurisdiction, our direct wetland impacts are only 3/100
14 of an acre, and just because we identify it, S-2 species
15 through our detailed recognizance effort, it doesn't follow
16 that meaningful impacts would result.

17 Secondly, understanding context is very important
18 when you're trying to compare projects. In two regards in
19 particular, a comparable basis for comparison is needed. For
20 example, when we talk about the length of roads or construction
21 disturbance areas or wetlands impact on a per-megawatt basis,
22 the two projects are actually fairly comparable, although the
23 Kibby project is generally located at lower elevations.

24 You have to consider the context as well as tradeoffs
25 associated within environmental settings. For example, the

1 Kibby project great wetlands impact reflect to a great degree
2 at lower elevations. As you come down off of the higher
3 mountain areas, wetland presence does tend to increase, and
4 once you have come down off of that area, wetlands presence is
5 generally very similar from most locations within this
6 particular area of Maine.

7 The last important factor when comparing projects is
8 selecting metrics that are truly reflecting the significant
9 impacts and significant issues. Certain metrics were selected
10 in the comparisons that I saw; other metrics were eliminated
11 from many of the metrics that weren't so our project would fare
12 very well.

13 So from my perspective, comparisons without the right
14 context don't necessarily tell the whole story and really can
15 sometimes be misleading.

16 We are proud of the work that we've done to
17 characterize the area and to optimize the project design to
18 make sure the project can be built and operated at the site
19 with minimal impacts to a whole wide range of environmental
20 issues. As we request conceptual approval and hope to move
21 toward the final design effort, as Chris said, the impact
22 minimization will continue to be a key focus of the effort.

23 MR. COLGAN: Good morning. My name is Charlie
24 Colgan, I'm with the University of Southern Maine, associate
25 director of the Center for Business, we have research there.

1 You have my prefiled testimony. In the interest of
2 time I will not make a presentation, but I stand ready to
3 answer any questions you may have.

4 MR. WILLIAMSON: My name is Tobey Williamson, I'm
5 with Barton Gingold, and I did community outreach work on the
6 project, and also in the interest of time I will not be
7 presenting my testimony but will be here to answer any
8 questions you may have.

9 MR. GOULET: Good morning. Mr. Chairman,
10 commissioners, ladies and gentlemen, my name is Corey Goulet,
11 and I'm the vice president of energy projects for TransCanada.

12 Jim McKay is to my left, and he led the preliminary
13 design effort for the project. He'll be available for
14 cross-examination later.

15 I'll try to finish up fairly quickly here as I know
16 Chairman Harvey wants to keep us on track here, so I'll try to
17 limit my comments to 10 minutes or less.

18 TransCanada has significant experience owning and
19 operating pipelines and power plants. We've got pipelines and
20 power plants located across North America, and our pipelines
21 are located in some of the most difficult terrain and
22 conditions imaginable. We've got over 2500 miles of pipelines
23 in protected areas and over 2000 miles in environmentally
24 sensitive areas.

25 I've listed a few of the challenging environments

1 where soil conditions are less than ideal but we've been able
2 to rise to the challenge and construct facilities.

3 Since 2004 TransCanada has been involved in wind
4 power projects. Currently we won six contracts to build 740
5 megawatts for \$1.2 billion worth of wind projects in the Gaspé
6 region of Quebec, which is not too far from the proposed Kibby
7 project.

8 We own 62 percent of Anse-a-Valleau, I developed the
9 execution strategy, and I sit on the board of directors.

10 The first project we developed was Baie-des-Sables.
11 773 turbines as maximum capacity of 110 megawatts. We
12 completed construction last year in just over six months, and
13 the site is now operational and is meeting all our
14 expectations.

15 Just in the past year we developed the Anse-a-Valleau
16 project. Anse-a-Valleau is very similar to the Kibby project
17 in that it's in a forested area with significant logging
18 development.

19 Anse-a-Valleau also has similar terrain to the Kibby
20 project, although it's somewhat lower. The lowest road is
21 located about 800 feet below the highest turbine -- I'm sorry,
22 875 below the highest turbine. By comparison Kibby has a
23 difference of about 800 feet. So we have similar types of
24 terrain that we experience in the construction of the proposed
25 Kibby project.

1 Finally, the Carleton project just received our
2 permit in the last month or so, and we started construction and
3 we hope to have that project completed next year.

4 If this project is approved my area will be
5 responsible for the implementation of the project. Phillip
6 Piuze has been the project manager for the thirteen wind
7 projects, and he'll act as the project manager for this project
8 as well.

9 He'll hire a small office team consisting of a
10 project engineer and administrative staff. He'll also hire a
11 consultant who will complete the final design and conduct the
12 detailed engineering. We'll also need a site team, including a
13 site manager, and a small team of inspectors, health and safety
14 coordinator, and administrative staff.

15 Prior to conducting the fieldwork we will have to do
16 a geotechnical study. That geotechnical study will be used to
17 complete the final design, but the specific construction
18 techniques to be used will be determined when the site is
19 cleared to where we're able to assess the local conditions.

20 As such, we'll need this small team of people,
21 including a field engineer, environmental coordinator, and a
22 civil inspector to assess the conditions on site and recommend
23 appropriate construction techniques.

24 The field engineer will be a third-party consultant
25 who will have local knowledge and unique understanding of the

1 soils and geotechnical conditions of the area.

2 As you've heard, we've been involved in this project
3 for a number of years. Obviously we're in the process of a
4 LURC approval process, and we have conducted the preliminary
5 design over the last year or so.

6 After we've done the geotechnical work and surveys,
7 we'll complete the final design. In order to complete the
8 project by the end of 2009 as intended, we'll have to order the
9 turbines early in 2008. The roads and foundations are proposed
10 to be constructed between April and November of 2008.

11 The substation would be started mid next year and
12 completed in early 2009; the transmission line will be
13 constructed through the winter of 2008/2009 to minimize the
14 impact. And finally, the collection system will be constructed
15 and the turbines will be erected in the latter half of 2009. A
16 willed commission and start up of those turbines as they're
17 erected in order to complete the project by the end of 2009.

18 The sign on the right -- the figure on the right is
19 taken from a topographic map that can be seen or found in
20 Appendix 2K of the application. The darker topographic line
21 indicates elevation changes above 25 feet, and the fainter
22 lines indicate elevation changes at 5 feet.

23 The red area indicates areas where soil and rock must
24 be removed or cut to build the proposed roads. The green area
25 indicates areas must be filled.

1 There are two basic types of turbine sites on this
2 project. The one you can see as an example where the turbine
3 site's located on a small hill or a flat area. As you can see
4 from the topographic lines, only a small amount of material in
5 10 to 15 feet will need to be removed from the top of this site
6 in order to level it off and make it suitable for the
7 construction of the foundation and erection of the turbine.

8 About two-thirds of all of the turbine sites are
9 constructed in such a manner, and I'll show you a photo of an
10 example in a few minutes.

11 This is the second type of site where the turbine
12 site is located on a hill. As you can see from the contour
13 lines, the elevation change from one end of the site to the
14 other is about 75 feet. This happens to be the worse case
15 scenario at all the turbine sites.

16 If we don't require the crane laydown area or
17 assembly area, the actual impact or levelling required is only
18 25 feet, and you need about 25 feet of cut in this particular
19 situation in order to level off that turbine site.

20 About one-third of the turbine sites are located on a
21 hill like this.

22 So let's talk about the turbine site layouts a little
23 bit. This can be found in Appendix 2K as well. We've selected
24 a turbine site area of about 7/10 of an acre. Based on our
25 experience of other wind projects, believe this is the minimum

1 that's required to safely and efficiently construct the
2 foundation and erect the turbines.

3 Turbine manufacturers will indicate that 300 feet by
4 300 feet -- or almost 2 acres -- are required for these
5 activities, but we've tried to minimize the input and based on
6 our experience we believe it's possible to use less area.

7 I talked about the crane assembly area. In most
8 cases the crane assembly area will not be required and we'll be
9 actually hauling the crane from one site to another. I'll show
10 a few pictures of that in a minute. But when it is required,
11 it will require another $3/10$ of an acre, or one-third of an
12 acre, more exactly for this purpose.

13 Finally, during normal operation most of the site
14 will be allowed to revegetate and will only require about a
15 quarter of an acre for the continued operation of the site.

16 This is an example of a project in Pennsylvania. I
17 used this picture because this is an example of good
18 development practices. You can see that the turbine sites are
19 relatively small. This particular site in the middle -- it's
20 four sites actually shown on this picture -- is only about 200
21 feet in diameter, about two quarters of an acre in size, and
22 you can see visually, even from this elevation, that you can
23 barely see the actual turbine site and very little of the roads
24 on either side linking the various turbine sites.

25 This is an example of a turbine built on a small hill

1 that I showed you earlier in a topographic map. This is from
2 our Anse-a-Valleau project, and you can see in the background
3 where there was a small fill and we have cut away the top of
4 that and used the material to fill in the sides of the turbine
5 site.

6 This site is also only about 200 feet in diameter, or
7 three-quarters of an acre, and you can see from the components
8 of the turbine that have been laid out that it's a pretty tight
9 site, and once you get the large 450-ton crane on the site,
10 that's about the minimum area you need in order to construct
11 the turbine.

12 Everyone's seen a picture of this site from the
13 Mars Hill project in Maine. It's interesting to note that
14 there's almost 200 cut feet of cut above the site itself, the
15 turbine site itself, and over 100 feet of fill.

16 This site's about 300 feet in diameter, or 1.65
17 acres. I use this to show the limited extent that we're trying
18 to develop in our projects, we're proposing sites that are only
19 about three-quarters of an acre in size. And the top green
20 line you can see there is actually the worse-case cut scenario
21 of about 75 feet. Most of ours are below 50 feet of cut and
22 this is the worse-case scenario. You can see the environmental
23 and visual impact is quite a bit less.

24 I've also got a few examples of roads that are built
25 on the project. This particular figure is also taken from the

1 top of Appendix 2K. You can see this road from the topo lines
2 it's very flat and generally requires very little fill, and it
3 can be constructed without need for much specialized
4 construction techniques.

5 By comparison, this is a road that's built up on a
6 hill. The hill actually goes from turbine A-11 to A-8, and you
7 can tell from the contour maps, the contour lines, that the
8 road is perpendicular to lines and therefore up the hill.

9 On the lower part of the hill, or slope, the slope is
10 quite gradual and just a little bit of fill is required; but on
11 the upper part it's a little bit steeper, and you can see that
12 a significant amount of cut is required in this area.

13 This is a particular concern of the State soil
14 scientist, and we understand the conveyance channelling and
15 level shredders and those types of specialized construction
16 techniques will be needed in order to minimize the
17 environmental impact associated with these types of roads.

18 Finally, the third type of road that's constructed
19 results in the most challenging terrain -- is constructed in
20 the most challenging terrain. In this particular case, the red
21 indicates areas of cut on the upslope of the road, it's on a
22 side road, if you will, and the green indicates areas of fill
23 on the downside or downslope of the road.

24 The reasons these are more challenging is because
25 more specialized construction techniques are required to manage

1 stormwater and groundwater.

2 I've talked in the last three slides about these
3 construction techniques, and this is a summary of the
4 construction techniques that can be found in the construction
5 of stormwater area in the application.

6 Most of these are relatively common structures that
7 are used extensively in the road construction industry.
8 However, on Kibby Mountain and on Kibby Range, certain soils
9 are present which are characterized by the shallow groundwater.
10 As such, I've highlighted a couple of techniques, the drainage
11 trenches and the drainage blanket that will be used. The
12 reason it will be used is to prevent the undesired channel flow
13 and associated erosion could be present if we collected the
14 flow and allowed the flow to naturally travel underneath the
15 road surface.

16 Just an example of a project in Quebec where there's
17 a side slope and a certain amount of cut on top of the hill and
18 a certain amount of fill on the bottom side of the hill. You
19 can see this is a significant digital impact. It's a fairly
20 long run.

21 (Steve Schaefer joined the hearing at 10:47 a.m.)

22 On the other hand, at Anse-a-Valleau we were able to
23 construct our roads along ridgelines, and you see that the road
24 has a minor visual impact and relatively minor environmental
25 impact as well.

1 So one might ask why do we need to construct such
2 large roads and turbine sites. This is just a photo of the
3 type of equipment that's required to build turbines. This is a
4 450-ton crane that's being transported from one site to
5 another. It has a 33-foot wide track width, and the road is
6 built 34 feet wide to accommodate the travel of this crane from
7 one site to another.

8 So why do we need such large cranes? Well, those
9 turbines are 26 stories high and that crane has a 330-foot
10 lattice boom that's required to raise the last section of the
11 tower and the 70-ton nacelle.

12 So in summary, TransCanada has developed a realistic
13 and practical achievable plan to install the Kibby wind power
14 project. There are opportunities to optimize this design and
15 we will take advantage of these to minimize the environmental
16 and visual impact and reduce our costs.

17 We also have the necessary construction and wind
18 experience to complete the project and meet the expectations of
19 the LURC and other stakeholders.

20 THE CHAIR: Thank you. You're all done?

21 MS. BROWNE: Yes. I was just going to suggest, we
22 have copies of the PowerPoint we can hand out now or after you
23 ask your questions, whichever is more helpful.

24 THE CHAIR: I assume Ms. Prodan will want a copy of
25 all your stuff.

1 MS. PRODAN: Can you also make the written material
2 that Ms. Gresock was reading from available because it contains
3 a lot of new information.

4 MS. BROWNE: Actually, all of her information is
5 based on the application and prefiled testimony. I don't think
6 there's any reason to provide her speaking. It's certainly
7 going to be part of the public record.

8 MS. PRODAN: It was quite expanded while listening to
9 her testimony on the Bicknell's thrush.

10 MS. GRESOCK: It's all in the application.

11 MS. BROWNE: It's all in the record, and you can see
12 it in the application of her prefiled testimony.

13 THE CHAIR: It's all in the record. Let's leave it a
14 that, okay.

15 MS. PRODAN: We'll settle for the PowerPoint.

16 THE CHAIR: I'm sorry?

17 MS. PRODAN: We will settle for the PowerPoint.

18 THE CHAIR: Okay. Well, you're going to get a copy I
19 guess.

20 I think for Lisa's sake we need to take about five
21 minutes here to let her take a break.

22 (There was a break in the hearing at 10:51 a.m. and
23 the hearing resumed at 11:04 a.m.)

24 THE CHAIR: We're going to let Ms. Prodan go first,
25 and the Commission will follow up later. I guess she basically

1 has between now and 12 o'clock, and we'll finish up right
2 around 12, a little after, have lunch, and then we'll continue
3 if that's necessary.

4 You may proceed, thank you.

5 MS. PRODAN: Thank you.

6 EXAMINATION OF CHARLIE COLGAN

7 BY MS. PRODAN:

8 Q. Good morning, Dr. Colgan. Evaluating wage forecasts, are
9 wages and employment accounted for in the Town in which
10 construction is occurring or in the Town in which the
11 employee lives?

12 A. The data that I used is based on an employment model. It
13 is placed on employment data, so it's based on the Town on
14 the location of the employment.

15 Now, this is a little different when it comes to
16 construction employment in that construction employment is
17 reported by the establishment employing the workers, and
18 they are supposed to report them in the location of the
19 construction project as opposed to the location of the
20 employer itself.

21 So, for example, Cianbro located in Pittsfield, is
22 supposed to report its employment in each of the
23 construction projects it manages in the location where
24 they're occurring.

25 Q. Did you do any research into the number of skilled workers

1 living in northern Franklin County?

2 A. No.

3 Q. Isn't it true that the closest labor market is in Quebec?

4 A. Yes, it is true that for the Coburn Gore area, the closest
5 labor market area are to the south in terms of along
6 Route 27, Carrabassett Valley, then Farmington north up to
7 Lac Megantic.

8 Q. Regarding lodging, what were your assumptions as to where
9 people would be living who are working on this project?

10 A. Short-term construction projects are projects like this
11 which are seasonal construction projects, the employee --
12 the construction workers will tend to come in and use the
13 local lodging establishments.

14 The exact extent to which that is going to happen is
15 unclear in part because TransCanada has noted in earlier
16 testimony does seek to hire a fair amount of local
17 employment and local contractors.

18 So the exact mix of people who will be brought in
19 versus local is unknown at this point.

20 Q. Are you aware of any housing currently available for a
21 transient workforce in Kibby Township?

22 A. No, not in Kibby Township; but it's typical in
23 construction projects like this that workers will live and
24 commute some distance.

25 Q. People could be living in Quebec, could they?

1 A. Well, the Quebec issue is a little complicated by rules
2 regarding the employment of Canadian residents in the
3 United States, and similar rules with respect to
4 employment of US workers in Canada.

5 The rules are fairly complex, and I would not have
6 normally assumed that any -- or many, if any at all --
7 Canadian workers would be employed on the project.

8 Q. In a location like this for your model, can you assume, or
9 did you assume, that TransCanada might be erecting
10 temporary housing for the workers? Did you include
11 anything?

12 A. No, I made no such assumptions. The location of the
13 employees during the construction phase was assumed to be
14 somewhere in Franklin County.

15 Q. And you didn't assume anything about -- no new housing
16 sites?

17 A. No.

18 Q. Thank you. Regarding the public services, you -- and
19 taxes -- you indicated in your testimony that the location
20 of the project in the unorganized territory Franklin
21 County presents a challenge to the funding of public
22 services, you said the property tax revenues will accrue
23 to the State for use by the unorganized territory service
24 fund; correct?

25 A. Correct.

1 Q. Did you make any attempt to factor in the cost of public
2 services to serve this project during the construction?

3 A. I did not do a physical impact analysis on either the
4 unorganized territory or Stratton/Eustis Township mostly
5 because the -- that was not part of my -- the requested
6 analysis that I did.

7 As noted in earlier testimony, the company does
8 propose to pay the unorganized territory property taxes,
9 plus make an additional contribution to the Town of
10 Eustis, and I have no reason to suspect that -- I think
11 that the additional payments to the Town of Eustis will
12 cover any minimal additional services that may be required
13 during the construction period.

14 Q. Are you aware when those payments will begin?

15 A. It's my understanding that they'll begin once the
16 construction project -- once the project is up and
17 running.

18 Q. That would be after construction; correct?

19 A. Yes.

20 Q. So it sounds like you also would have not made any attempt
21 to factor in the cost of public services to service the
22 project after construction; correct?

23 A. As I said, I did not do a physical impact analysis on the
24 project; I did an economic impact analysis.

25 Q. Okay. When you discussed the estimate of the property

1 bill, tax bill, of at least a million dollars per year and
2 you said that this makes up about two-thirds of current
3 payments, what do you mean by this? Can you explain that
4 a little further?

5 A. Sure. The \$1 million property tax bill is estimated by
6 TransCanada. The final property tax bill cannot be
7 estimated any closer than that because property tax
8 assessors have no project, have no facility, to in fact
9 assess. So the million dollars is a ballpark guess.

10 Take the million dollars as a proportion of the taxes
11 paid in the unorganized territory in Franklin County,
12 which is derived from the total valuation of the
13 unorganized territory times the mill rate, and you get
14 about the two-thirds number.

15 Q. Okay, thank you. Concerning what I'm calling electric
16 benefits, on Page 5 of your testimony you conclude that
17 any mitigating effects of the more stable prices of
18 electricity from wind power would offset the negative
19 impact occurring from fossil fuel price instability;
20 correct?

21 A. Correct.

22 Q. So are you saying that you think that the price of
23 electricity from wind power will be stable even if the
24 price of electricity from fossil fuel is unstable?

25 A. Relative to the price of wind power in the market will be

1 more stable than the price of fossil fuel derived energy
2 simply because there is no energy charge to the wind
3 power, where there is an energy charge to the fossil
4 fuels.

5 Q. Dr. Colgan, are you aware that the price per kilowatt hour
6 is set by ISO New England and is the highest bid price for
7 all generators of electricity, whether the power is
8 generated from wind power, gas, or oil?

9 A. Yes, this is marginal cost pricing. It's typical of the
10 way in which energy markets are set and entirely
11 consistent with standard economics.

12 My point was simply that the -- that there are some
13 long-term energy benefits, which have been covered
14 elsewhere, that will accrue to Maine. I cannot say what
15 those benefits are in terms of changes in economic
16 activity. I simply noted them.

17 Q. So it would be somewhat speculative to say that enough
18 benefits would flow from this one project to offset any
19 negative impacts from fossil fuel price instability;
20 correct?

21 A. From this one project, as I said, the -- I made no attempt
22 to exactly offset one against the other, but I believe
23 that the offsetting energy -- the energy benefits of wind
24 power will offset some of the detrimental costs of
25 reliance on fossil fuels.

1 MS. PRODAN: Okay, thank you, Dr. Colgan.

2 THE WITNESS: Thank you.

3 THE CHAIR: Excuse me a minute. Juliet what time did
4 Dr. Colgan have to leave now?

5 THE WITNESS: I've got another hour or so.

6 THE CHAIR: Okay. I was just -- I can't really let
7 him go until all the other intervenors have had a crack at him,
8 too, so you may have to do some things here if there are other
9 intervenors that want to ask him questions.

10 I may have to interrupt Pam once or twice to get that
11 kind of push here.

12 Are there any other intervenors here who are going to
13 question Dr. Colgan? If not, that's fine.

14 Commissioners, I will let you have -- Catherine, you
15 keep track of the time here so we don't cut in. Gwen or Steve?
16 Steve, did you have a question?

17 MR. WIGHT: No.

18 THE CHAIR: You're going to get off pretty easy.

19 Again, I would like to get into all kinds of
20 questions about energy pricing, but I'm not sure they're
21 relevant. With that, we thank you.

22 Pam, please go ahead.

23 EXAMINATION OF TERRY BENNETT

24 BY MS. PRODAN:

25 Q. Good morning, Mr. Bennett. In Appendix 1-E of the

1 application -- this is the report called 2004 Climate
2 Change and Air Issues Annual Report -- do you know what
3 I'm referring to?

4 A. I haven't got the report memorized.

5 MS. BROWNE: If you're going to talk about a
6 document --

7 MS. PRODAN: You don't have copies?

8 MS. BROWNE: What is it?

9 MS. PRODAN: It's Appendix 1-E of the application.
10 It's in Volume 2.

11 MS. BROWNE: I'm sorry, what report is it that you
12 want?

13 THE CHAIR: Make sure Lisa can hear what you're
14 saying, Pam.

15 BY MS. PRODAN:

16 Q. On Page 10 of the report under No. 3, are you all set
17 there?

18 A. I think I have the reference.

19 Q. No. 3, it states TransCanada will manage greenhouse gas
20 emissions from our operations on an intensity basis, and
21 greenhouse gas intensity is defined as tons of emissions
22 per unit of production; is that correct?

23 A. That's what it says, yes.

24 Q. In the bottom paragraph called Strategy, it is a
25 discussion that says that TransCanada will increase its

1 ability to deliver natural gas to North American markets
2 while increasing power generation capacity using
3 innovative and energy efficient methods; correct?

4 A. Correct.

5 Q. You consider wind energy to be one of those energy
6 efficient methods; correct?

7 A. Yes, it's a clean energy source.

8 Q. Would you agree that in order to generate a certain amount
9 of electricity from wind, you would either have to build
10 one turbine in a high wind resource area or more turbines
11 in a lower wind resource area?

12 Do you want me to repeat that?

13 A. Yes, please.

14 Q. Would you agree that in order to generate a certain amount
15 of electricity from wind, you would either have to build
16 one turbine in a high wind resource area or more turbines
17 in a lower wind resource area?

18 Would you agree with that?

19 A. I think as a general statement windier areas produce more
20 energy for a given turbine, yes.

21 Q. So that is consistent with what Mr. Di domenico said
22 earlier this morning that you consider Kibby at 8.5
23 percent and to be two times as energetic as a site with
24 wind speeds at 7.5 meter per second; correct?

25 A. Roughly.

1 Q. Thank you. Going on to Page 11, the side bar states,
2 TransCanada's strategy is designed to limit the growth of
3 our greenhouse gas emissions' intensity, while expanding
4 our pipeline and power businesses; is that correct?

5 A. That's correct.

6 Q. Is it true that TransCanada believes that wind energy will
7 play a role in allowing TransCanada to expand its pipeline
8 business?

9 A. I don't think the two are directly related. I think when
10 managed prudently our GHG emissions -- we're in the power
11 business -- wind is a key component of our power business
12 withstands certain tests in terms of financial viability.

13 Q. Is it not TransCanada's position that wind power emits no
14 or very little carbon?

15 A. That's correct.

16 Q. So wind power is highly carbon efficient; correct?

17 A. I'm not sure what you mean by highly carbon efficient; but
18 it doesn't produce emissions, yes.

19 Q. Thank you. Now I want you to go to the 2006 Annual
20 Report, and that's Appendix 1-F. Actually I'm going to
21 look at the notes. Do you have that in front of you?

22 A. I have the annual report here.

23 Q. Thank you. Page 84 of the notes to the consolidated
24 financial statement?

25 A. Yes.

1 Q. You can see that TransCanada is providing natural gas to
2 fuel the Alberta oil sands project; correct?

3 A. We have a pipeline -- a natural gas pipeline in Alberta.

4 Q. And the natural gas goes to?

5 A. I don't know, I don't work on the pipeline side. I assume
6 it goes to consumers in Alberta.

7 Q. I guess I would point you to the -- I'm looking for the
8 line here -- I'm looking at the bullets and counting down
9 two, four, six -- the seventh bullet, could you read that
10 out loud, please.

11 A. Natural gas transmission systems in Alberta owned by
12 TransCanada Pipeline Ventures under a partnership,
13 Ventures, LP, are supplying natural gas to a region of
14 northern Alberta into a petrochemical complex.

15 Q. So this is a pipeline segment of the corporation that owns
16 and operates this pipeline; correct?

17 A. I believe so.

18 Q. Thank you. On Page 68 at the bottom, it mentions under
19 the topic Risks and Risk Management Related to
20 Environmental Regulation that in the US, State-level
21 initiatives are underway to limit greenhouse gas
22 emissions, particularly in the northeastern US and
23 California, and the impact to TransCanada's US States'
24 passage is uncertain; correct?

25 A. Correct.

1 Q. Then going on to Page 69 it states that, despite this
2 uncertainty, TransCanada will continue with programs to
3 lower greenhouse gas emission rates; is that correct?

4 A. Correct.

5 Q. And the rate referred to here is the rate of greenhouse
6 gas emissions in terms of intensity; correct?

7 A. I don't see the word rate here.

8 Q. It's basically the last word in the second to the last
9 sentence of that section, right above on Page 69 where
10 it's above Controls and Procedures. If you just read the
11 top sentence on Page 69 out loud, please.

12 A. Despite this uncertainty, TransCanada continues with its
13 programs to manage greenhouse gas emissions, assets, and
14 to evaluate new processes and technologies that will
15 result in improve efficiencies and lower greenhouse gas
16 emission rates.

17 Q. Again, the question is, the rate referred to here is the
18 rate of greenhouse gas emissions intensity; correct?

19 A. I believe so.

20 Q. Is there someone else I should be asking about greenhouse
21 gas emissions --

22 A. I'm in charge of power development, not greenhouse gas
23 emissions or not our greenhouse gas strategy. I can do my
24 best and answer your questions.

25 Q. Okay, thank you. Are you aware whether the rate of

1 greenhouse gas emissions intensity could go down for
2 TransCanada at the same time that the total greenhouse gas
3 emissions from the whole business go up?

4 A. I don't know the math.

5 Q. Are you aware of the corporate goal of TransCanada to
6 reduce the greenhouse gas emissions intensity as a
7 company?

8 A. I am.

9 Q. Okay, thank you. Now I am going to go to Appendix 2-C and
10 the title of that publication is Global Warming in
11 New England. It might actually be under Tab 2-D. It
12 might have been misplaced. Mine was.

13 Can you please explain -- well, strike that.

14 On Page 17 of this report, Global Warming and
15 New England, in the discussion of electricity sector --
16 are you there?

17 A. I believe so, yes.

18 Q. It states that using the carbon efficiency method of
19 measuring can lead to an increase in absolute emissions if
20 demand for electricity outstrips the gains from efficiency
21 or renewables; correct?

22 A. I don't see the exact reference but I'll take your word
23 for it.

24 Q. Do you agree or disagree with that statement?

25 A. This is not our report but I think --

1 Q. It's in your -- excuse me.

2 A. It seems like a plausible statement to me, yes.

3 This is not our report, it's not published by
4 TransCanada, but it seems like a plausible statement to
5 me.

6 Q. This report is in your application; correct?

7 A. It is.

8 Q. Do you have an opinion as to whether -- if demand for
9 natural gas outstrips the gains from efficiency or
10 renewables, isn't there going to be an increase in global
11 absolute greenhouse gas emissions?

12 A. I think global greenhouse gas emissions is exactly that, a
13 global issue encompasses all industries and all human
14 activity on the earth. It's a broader question than that.

15 Q. Now I'm just going to refer to some of the text in the
16 application. It states that TransCanada is developing
17 several large-scale projects across North America.

18 I don't know if you were responsible for that on
19 Page 120 of the text; is that correct?

20 This is Volume 1, Section I, Page 120.

21 A. I've got the reference.

22 Q. The title of the page is Other Projects and Initiatives.

23 What are the three projects listed on this page?

24 A. The Alaska Highway Pipeline Project, the McKenzie Valley
25 Gas Pipeline Project, and the Keystone Oil Pipeline

1 project.

2 Q. And these projects are under development?

3 A. I'm sorry, there's a Northern Lights Electrical
4 transmission project on the next page.

5 Q. These projects are under development?

6 A. That's correct.

7 Q. What effect will the addition of the pipelines, the three
8 pipelines, have on TransCanada's absolute greenhouse gas
9 emissions?

10 A. In isolation obviously new pipelines will add to our
11 emissions.

12 Q. What effect will the addition of these pipelines have on
13 TransCanada's greenhouse gas emissions intensity?

14 A. I couldn't tell you.

15 MS. PRODAN: Mr. Di domenico, I have a few questions
16 for you.

17 EXAMINATION OF NICK Di DOMENICO

18 BY MS. PRODAN:

19 Q. You have referred to the premier wind resource at the
20 Kibby project location; correct?

21 A. That's correct.

22 Q. You stated that the purpose of this project is to use a
23 premier wind resource to respond to the growing demand for
24 clean renewable energy; correct?

25 A. Yes.

1 Q. I'm going to pose just a quick hypothetical and then ask
2 you a question.

3 Suppose LURC had a developer ask for a rezoning of a
4 protected sand dune area to develop an excavation pit in
5 order to extract what is a premier source of clean sand
6 and there's a market for the sand, a less than premier
7 resource of sand could also be utilized that would not
8 require the rezoning of the sand dune area protected.

9 You can probably anticipate my question. But the
10 question is, do you think that LURC should take into
11 account that the developer wants access to this premier
12 source of sand even though alternatives exist?

13 A. I believe that LURC should deal with the issue at hand
14 given all the information provided and that is to deal
15 with the Kibby project, its impacts, whether they are
16 undue or not, and the environmental benefits, and other
17 societal benefits instead of the project.

18 Q. Does -- are you done?

19 A. Yes.

20 Q. Does the fact that the Kibby project purpose is
21 articulated in a way to require the prime wind resource
22 there mean that the project depends on the wind resource
23 found at the location?

24 A. All project -- wind projects -- fundamentally depend on
25 the wind resource. It is the economic driver of a wind

1 project, as well as the source of the environmental
2 benefits, or the source of basically the community
3 benefits, yes.

4 Q. Are you or the other intervenors in this proceeding saying
5 that there are many other wind sites in Maine that are
6 viable and will be developed?

7 A. I'm aware of that, yes.

8 Q. Have you read the testimony of Sean Mahoney?

9 A. Yes, I have.

10 Q. So you are aware, are you not, that -- if I could quote
11 from his testimony that he said on Page 7 -- As the maps
12 submitted by the applicant indicate, there is plentiful
13 wind resource available in Maine at this and other
14 locations; correct?

15 A. Yes.

16 Q. I have a question about the P-MA subdistrict, the
17 protected mountain area subdistrict for you.

18 Have you read the regulations that LURC has in
19 Chapter 10 concerning the allowed uses in the P-MA
20 subdistrict?

21 A. I've briefly read most of the CLUP, but I relied on my
22 counsel for the interpretation of the CLUP.

23 Q. That's a good idea. But are you aware that you can't even
24 build a cabin in a protected mountain area subdistrict?

25 A. I'll take your word for it.

1 Q. Be sure to check with your lawyer, though.

2 I guess my question about this is why couldn't
3 someone say that their purpose is to build a remote cabin
4 in a pristine mountain area and petition LURC to rezone
5 the area out of protection saying that because the purpose
6 depends on a pristine mountain area, the project depends
7 on that location?

8 A. I'm not following your question, I'm sorry.

9 Q. We already discussed that you've articulated that the
10 Kibby project purpose in a way to require the premium wind
11 resource.

12 Remember the first question I asked you?

13 A. Yes.

14 Q. Why couldn't anyone go before LURC and articulate the
15 purpose of their project to require a resource that is
16 protected and justify the need based on how they've
17 articulated the purpose?

18 A. I still don't follow your logic.

19 MS. PRODAN: Okay.

20 EXAMINATION DON HUDSON

21 BY MS. PRODAN:

22 Q. Dr. Hudson, good morning.

23 A. Good morning.

24 Q. Are you a soil scientist as well as a --

25 A. No.

1 Q. -- life scientist?

2 Are you aware that there are actually many references
3 in the TransCanada application to areas in the boundary
4 mountains -- in the project area in fact -- where there
5 are outcrops, ledges, steep slopes, shallow soils?

6 A. Yes.

7 Q. On your -- in your testimony on Page 3 --

8 A. Yes.

9 Q. -- you state that the slopes of the boundary mountains are
10 more shallow and gentle. Few outcrops or ledges can be
11 found.

12 Have you reviewed the actual soils information filed
13 by TransCanada in this proceeding?

14 A. Not in detail but in general.

15 Q. Did you review the text?

16 A. Yes.

17 Q. Did you review the median intensity soil survey?

18 A. Yes.

19 Q. Did you review Appendices B, C, and E of the soils report?

20 A. I reviewed the entire application.

21 Q. Have you read Dave Rocque's comments concerning soils?

22 A. I don't have them in front of me, and if they were in the
23 application, I reviewed them. I don't have the
24 application committed to memory though.

25 Q. So you are aware that in the application in Section 5,

1 Earth Resources, dealing with suitability, Section 5.2.4,
2 it states, There are limitations inherent to some of the
3 soils identified at the site, including seasonally high
4 water tables, shallow depth to bedrock, and steep slopes;
5 do you recall that?

6 A. Yes.

7 Q. In Section 5.2.4, steep slopes, some of the steep areas
8 between 45 percent in slope grade and will require
9 substantial grading to develop access roads; do you recall
10 that?

11 A. I do.

12 Q. Do you recall the reference in Section 5.31 concerning
13 geological recognizance, and this is within Series A and B
14 ridge development areas, "Field observation during soil
15 and preliminary geological investigation show conditions
16 along the ridgelines primarily consist of a thin mantle of
17 glacial till underlain by bedrock. Angular boulder
18 blocks, overline bedrock, or exposed bedrock; do you
19 recall that?

20 A. I do.

21 Q. But in your testimony you say few outcrops or ledges can
22 be found; is that right?

23 A. Yeah, that's a comparative statement to the other
24 mountains of Maine that I have familiarity with.

25 Q. But surely there must be quite a few, otherwise, as you

1 say, few outcrops or ledges can be found, why doesn't
2 TransCanada manage to avoid them?

3 A. I can't speak to that particular question.

4 Q. In your conclusion you do refer to the Mahoosuc Range, as
5 well as Bigelow Preserve, Baxter State Park, and you state
6 that -- and I'm quoting -- In these higher mountains, I
7 found all the geological features of hallowed buttresses
8 of outcrops, granite, and rocky barren summits included in
9 the definition of the P-MA; is that correct?

10 A. Correct.

11 Q. Could you cite in the P-MA definition where these features
12 are stated or applied?

13 A. I don't have it in front of me.

14 Q. Did you refer to the P-MA when you wrote this, the P-MA
15 subdistrict?

16 A. I reviewed, yes.

17 Q. Are you aware of the LURC subdistrict called the soils and
18 geology protection subdistrict, the P-SG?

19 A. Not in detail.

20 Q. Are you aware that there are a number of areas in the
21 Mahoosucs that are zoned P-SG, for instance?

22 A. I don't have a detailed map, zoning map, in front of me,
23 nor did I review it proximate to writing that testimony.

24 Q. I'm just going to pull out the zoning regulations and have
25 you quickly look at the P-MA subdistrict.

1 Could you please look at that description and --
2 anywhere, actually, in the P-MA subdistrict standards --
3 where the features that you refer to are stated or
4 implied?

5 A. Well, some of the -- some of the named -- some of the
6 named geological features that I listed in my testimony
7 are implied in the first sentence in the word geology and
8 words geology of the slope.

9 Q. Is there any reference to talus?

10 A. No, no. I chose to use words that are commonly used to
11 describe surficial features in high mountain areas.

12 Q. Is there any references to buttresses of outcrops, granite
13 or rocky barren summits?

14 A. No.

15 Q. So none of those references are included in the P-MA
16 definition?

17 A. Correct.

18 MS. PRODAN: Thank you. I guess I still have a
19 little bit of time before lunch.

20 THE CHAIR: You don't have to use it. It's not a
21 requirement.

22 EXAMINATION OF TOBEY WILLIAMSON

23 BY MS. PRODAN:

24 Q. Mr. Williamson, in your direct testimony you made
25 reference to recreational access to the areas developed;

1 correct?

2 A. I'm sorry, to recreational access development?

3 Q. In your testimony on Page 6, you said that the turbines
4 would be a destination for ATVs and snowmobiles, according
5 to Scott Ramsay; correct?

6 A. Yes, Mr. Ramsay said that.

7 Q. Would you agree that you've represented that TransCanada
8 would not close the new access roadways or the
9 transmission line to public access?

10 A. Yes.

11 Q. And those access ways would remain subject to continuation
12 of Plum Creek's open lands policy?

13 A. Yes, that's correct.

14 Q. And where the landowners are not Plum Creek under the
15 transmission lines, access to those transmission lines
16 would be controlled by the landowner, not you; correct?

17 A. That's correct.

18 Q. In fact, does TransCanada actually have any rights to
19 control recreational access on any of the transmission
20 line?

21 A. I'm probably not the best person to answer that question
22 but not that I know of.

23 Q. Okay, but you referred to Plum Creek's open lands policy.
24 What does that say to you about use by snowmobiles and
25 ATVs?

1 A. My understanding is that snowmobiles are not allowed to
2 use plowed roads; ATVs must use trails that are approved.

3 Q. So it would not be correct to imply to the public that the
4 access roadways would be open to snowmobiles and ATVs,
5 would it?

6 A. Well, I don't think -- I did not mean to imply that.
7 There's other ways to get to the project beyond the roads.

8 Q. If this area is thought to be a destination possibly, how
9 exactly would the turbines be accessed if Plum Creek
10 doesn't allow these types of vehicles on the roads?

11 A. Well, there was a former ITS trail going to the peak of
12 Kibby Mountain, and I've been told by the members of the
13 Arnold Trail Snowmobile Club that they continue to use
14 trails in and around the area, whether or not they are
15 part of the ITS.

16 Q. Are you aware of efforts to try to reopen that trail to
17 public use?

18 A. I'm not, no.

19 Q. How would you find out an area like this area is used for
20 remote recreation?

21 A. Can you tell me what you mean by remote recreation?

22 Q. Well, you did surveys -- you interviewed people basically;
23 right?

24 A. That's correct.

25 Q. How would you find out whether an area was being used for

1 recreation off the roads?

2 A. Well, the people that I spoke to, some people said there's
3 some hiking that's going on in the area. Is that what you
4 mean?

5 There's hunters hunting that's going on up there.
6 This is -- all I can tell you is what people have told me.

7 Q. Okay, so you rely on what people tell you. And that
8 determines -- excuse me.

9 A. Yes, that was my job for the last two years was to speak
10 with people in the community.

11 Q. So what people tell you determines how you will try and
12 get in touch with other users; correct?

13 A. That's certainly one way, ask people I spoke to who else I
14 should speak to.

15 Q. If someone were coming from an area outside of the
16 community and just using the boundary mountains area
17 without stopping at, say, the market in Eustis or Pines
18 Market or some other location, but just went directly,
19 would people be able to tell you about that user?

20 A. Not everybody but there were certainly -- I mean, we did
21 other things besides the anecdotal survey that I did. We
22 did do some counting. Maybe Lynn Gresock can answer those
23 questions.

24 Q. So you don't -- I thought you were in charge of doing the
25 public outreach?

1 A. I was in the local area, yes.

2 Q. Did you go up here during deer hunting season?

3 A. Did I? No, I did not. The focus of my community work was
4 in the local area. I didn't spend a whole lot of time up
5 in that area talking to people because they're hard to run
6 across up there.

7 Q. Would you know if someone were camping at Natanis
8 Campground and then going into the area -- did you --
9 strike that first question.

10 Did you go to the Natanis Campground to --

11 A. Yes, I did.

12 Q. Did you inquire as to destinations of people who were
13 there at the time that you were there?

14 A. Yes, I did.

15 Q. So you approached individual campers?

16 A. No, I spoke with the owner of the campground.

17 Q. Would the owner of the campground necessarily know if
18 someone were camping at the campground and decided to
19 bushwhack up this mountain?

20 A. No, he wouldn't necessarily know that.

21 Q. When you talked to people, did you use any visual
22 simulations when you interviewed people?

23 A. Well, at different phases of the project, yes, I did.

24 Early on in the recreational survey we didn't have those
25 simulations.

1 Q. So for many people you just asked them if they were
2 familiar with wind projects; correct?

3 A. Correct.

4 Q. You didn't tell them the height or size of the proposed
5 towers and turbines, did you?

6 A. I don't recollect; but if people asked and I had the
7 information, I would have provided it.

8 If I didn't have the information, I made an effort to
9 go get it from TransCanada and bring it back to people.

10 That was also part of my job to give and take between
11 community members and team.

12 Q. So if you asked someone if they were familiar with wind
13 power project and they said yes, you didn't find a need to
14 give them any more information, did you?

15 A. I'm confused about which portion -- are you focusing on
16 the recreation survey or are you focusing on the rest of
17 the outreach that I've done? At different points I
18 provided -- we had a copy of the fact sheet that we
19 distributed quite a few places.

20 Q. Maybe you could explain how you treated different people
21 you spoke with differently, if you don't mind.

22 A. Well, early on we did a recreation survey to do our best
23 to understand how people are using that project area.

24 As the project moved forward, we continued to talk to
25 different people in the community and to share more

1 information as it became available as the project sort of
2 grew and had more information to share.

3 Q. So which people did you tell the height and size of the
4 towers and turbines?

5 A. I've spoken to hundreds of people in the area. I couldn't
6 tell you which ones I told exactly precisely.

7 Q. How many people that were interviewed do you think would
8 actually have seen a wind power facility like what's being
9 proposed?

10 A. It's hard to give you a precise number. When Mars Hill
11 went up, I think quite a few people have been up to see
12 that. Some people have travelled around to different
13 places in the country and seen them.

14 It's hard to give you a precise number.

15 MS. PRODAN: Thank you. I don't think it would be
16 good for me to start on anybody else because they're somewhat
17 longer in duration. Thank you.

18 MR. BENNETT: Can I respond to the first set of
19 questions that Pam had? 30 seconds.

20 THE CHAIR: Sure, go ahead.

21 MR. BENNETT: I don't know if I'll be particularly
22 helpful because I'm not a greenhouse gas expert and I don't
23 work on the pipeline side of TransCanada.

24 I just want to explain that TransCanada doesn't own
25 the natural gas supply. It doesn't consume the natural gas at

1 any other end.

2 What our job is is to transport it from supply to the
3 demand point.

4 We are trying -- you know, the words in our mission
5 statement is, we're trying to reduce the intensity of the
6 energy and emissions that are used to get it from Point A to
7 Point B. We're doing that using the best available technology
8 we can.

9 Obviously that type of technology doesn't allow us to
10 get those emissions to zero, but we're working to reduce those
11 emissions as much as we can. So that's the intensity level.

12 We don't control either the rate of supply that comes
13 on or the rate of demand on the other end, so whether the
14 overall emissions rate for TransCanada go up or down -- or the
15 levels go up and down -- is sort of beyond our control. We're
16 there to connect markets.

17 We're doing what we can as part of our corporate
18 philosophy to reduce emission rate it takes by looking at
19 technology and doing what we can on the power generation side
20 by investing in energy efficient generation facilities and
21 reducing emission rates and compression stations along the gas
22 pipeline. Thank you.

23 MS. PRODAN: I must say that I have a couple of
24 follow-up questions if that is all right.

25 THE CHAIR: You've got 5 minutes.

1 EXAMINATION OF TERRY BENNETT

2 BY MS. PRODAN:

3 Q. Mr. Bennett, on Page 8 of the 2004 Climate Change and Air
4 Issues Annual Report, it does say that the three
5 greenhouse gases commonly produced by TransCanada are
6 carbon dioxide, methane, and nitrous oxide; is that
7 correct?

8 A. Again, I don't have the report here in front of me, but I
9 assume that's correct.

10 Q. Do you have to assume that, or are you aware that
11 TransCanada's pipelines do emit global warming emissions?

12 A. I believe they do. Again, I'm not the greenhouse expert
13 here for TransCanada, but there certainly are emissions
14 associated with our compressor stations.

15 MS. PRODAN: Thank you.

16 THE CHAIR: I guess that's it. We'll adjourn and try
17 to return here by 12:30. We'll pick it up then.

18 * * * * *

19 (There was a luncheon break in the hearing at 11:55
20 a.m. and the hearing resumed at 12:38 p.m.)

21 * * * * *

22 THE CHAIR: Are we all ready to go?

23 MS. PRODAN: Yes.

24 THE CHAIR: It's 12:35, approximately. You've got
25 until about quarter of 2, Pam, okay.

1 MS. PRODAN: Well, I thought I was going to have more
2 than that after lunch.

3 THE CHAIR: My note said 70 minutes.

4 MS. PRODAN: My note says 90 minutes, 12:40 to 1:50.

5 THE CHAIR: We had some clock problems with the
6 timing on this. I'm not going to get too excited but somewhere
7 between 70 and 90 minutes. I'll be generous, how's that?

8 MS. PRODAN: 90 minutes will take it to 2:10.

9 THE CHAIR: Let's shoot for around 2 o'clock.

10 MS. PRODAN: Thank you.

11 THE CHAIR: That should give you plenty of time.

12 MS. PRODAN: That way if I stop early, I'll look
13 really good.

14 THE CHAIR: That's right.

15 EXAMINATION OF JEAN VISSERING

16 BY MS. PRODAN:

17 Q. Good afternoon, Ms. Vissering.

18 A. Good afternoon.

19 Q. Ms. Vissering, you participated as a witness in the
20 Black Nubble proceeding; correct?

21 A. That's correct.

22 Q. Do you recall on Page 32 of your direct testimony for the
23 Black Nubble project, you wrote with regard to the
24 mountain protection zone that "in examining the resources
25 involved in mountaintops, the Commission notes the fragile

1 nature of these environments."

2 Do you remember that?

3 A. Yes, I do.

4 Q. Also on the same page you quoted the CLUP and wrote "in
5 discussing the issues involved the plan beginning by
6 noting," actually, your quote was from the CLUP where the
7 CLUP said "mountains and the scenic, natural,
8 recreational, economic, and other values they possess are
9 a limited resource in Maine."

10 Do you recall writing that?

11 A. I certainly do.

12 Q. Yet, isn't that correct that in your rebuttal in this
13 proceeding you took a completely different attack and
14 wrote that among the factors you considered in this
15 proceeding was the -- and I'm quoting here -- "lack of any
16 clear public documentation of the particular scenic or
17 recreational value of this mountain or its surroundings"?

18 A. Yes, I completely -- I definitely believe that it's the
19 responsibility of LURC to look at the fragile nature of
20 the mountain ridges, areas above 2700 feet, also to assess
21 the scenic impact.

22 But I also believe that every site is different, and
23 I think one of the important points that I feel is very
24 relevant here is, among many others, is that in the case
25 of Black Nubble there was a clear statement in several

1 places of the CLUP the specific value of the Appalachian
2 Trail.

3 There is no similar specific statement that has been
4 made about trails for the general area or specific
5 resources in the vicinity of the Kibby project.

6 Q. With regard to the words "fragile nature" or the words
7 "limited the resource," did you make reference to those
8 values in your testimony in this proceeding?

9 A. The only reference I made to those specific statements in
10 the CLUP was in the rebuttal to Mr. Kimber's testimony
11 because he cited those, and I do feel that -- as I did
12 with the Black Nubble case -- I think that there are
13 places that are going to be appropriate for some wind
14 energy development.

15 I think that LURC's responsibility is really to look
16 at those values and to weigh them against the other
17 natural resources, and my, interest scenic values in the
18 area, and make a decision.

19 Certainly the fragile nature of those landscapes are
20 important and where they apply those values, those values
21 need to be evaluated in terms of the particular nature of
22 the site involved.

23 Q. Can you show me in your rebuttal testimony where you say
24 you refer to fragile natural resource?

25 A. No, I didn't. I said I looked in my rebuttal testimony

1 because I was responding to Mr. Kimber's statement that it
2 was LURC's responsibility to look at the remote values,
3 and I was pointing out that LURC does have a larger
4 responsibility to look at a range of different values
5 within their jurisdiction. I think that is --

6 Q. So you did not?

7 A. -- consistent with what I would believe in any of these
8 cases.

9 Q. So it is correct that in your rebuttal proceeding, in this
10 proceeding, you did not mention anything about the limited
11 resource or the fragile nature of mountains in Maine;
12 correct?

13 A. I recall -- I can't remember in my testimony -- it would
14 be in my report noting that these are -- that these are
15 important scenic areas.

16 I think this is something -- and fragile areas --
17 that need to be addressed; but I did not think that in
18 this particular case those were the issues we were dealing
19 with.

20 Q. In your direct testimony in this proceeding, you stated --
21 and I believe it's on Page 32 -- "it's a scenic but not
22 spectacular landscape with none of the mountains exceeding
23 4000 feet; correct?

24 A. Yes, that's correct.

25 Q. Do you have a professional stake in whether the Commission

1 places higher value on spectacular scenery?

2 A. What do you mean by a professional stake?

3 Q. Are you more vested in the protection of spectacular
4 scenery over the protection of less spectacular scenery?

5 A. It is a measure that is used in most visual assessment
6 methodologies. When we look at, for example, we heard in
7 the Black Nubble case the US Forest Service methodology,
8 which is the methodology that has been adapted in nearly
9 every assessment, one of the critical parts is to look at
10 the particular scenic values that are involved in the
11 site.

12 Maine has a landscape that is not unlike Vermont
13 where I come from. Much of Maine is very scenic.

14 In making these decisions, the kinds of resources
15 that become really important are those that have
16 outstanding scenic values, and there are measures -- I
17 think I described those actually last time in the
18 Black Nubble case -- one of the measures is diversity.

19 So when you add rock outcrops, alpine vegetation in
20 terms of diversity, you're increasing the level of
21 diversity, as well as just the sort of very steep slopes.
22 All those things tend to increase visual diversity and
23 therefore scenic quality.

24 So we have -- there are -- I think it is possible to
25 articulate different scenic quality values, which this

1 range of mountains and its environment and the range of
2 environments in the Black Nubble case.

3 Q. And you spent a lot of time reading the CLUP; correct?

4 A. I have certainly read most of the CLUP.

5 Q. Is there anything in the statements in the CLUP, in the
6 policies or in the discussions, that suggest that LURC has
7 ranked mountain areas and written some of them off based
8 on whether or not they are spectacular or over 4000 feet?

9 A. No, and I think --

10 Q. Thank you. On Page 4 of your rebuttal --

11 MS. BROWNE: I just ask that she not be cut off. I
12 request that the witness be allowed to answer the question
13 fully. She was cut off in mid answer.

14 THE CHAIR: Go ahead and answer it, please.

15 MS. VISSERING: I've forgotten now what I just said.

16 THE CHAIR: Let's allow them to answer the questions
17 so we get some sense of what they're saying.

18 MS. PRODAN: I just looked at my watch and I
19 panicked.

20 BY MS. PRODAN:

21 Q. On Page 4 of your rebuttal testimony for this hearing, you
22 say that certain combinations of land form, vegetation and
23 water features were both in natural or cultural features
24 that are particularly distinctive.

25 This is not the case here; correct? You stated that?

1 A. Yes, I did.

2 Q. Is there anything from LURC's regulations -- or in the
3 CLUP for that matter -- that suggest that certain mountain
4 areas under the jurisdiction of this Commission that have
5 particular land forms, vegetation or water features are
6 more worthy than others of the protection afforded under
7 the protected mountain subdistrict?

8 A. That was the question I was answering.

9 Q. Not exactly --

10 A. -- when I got cut off. I'll answer it next.

11 I think that the point I just wanted to make was
12 that, again, those values are not mentioned, but on the
13 other hand, I think in the case of Black Nubble, the
14 Appalachian Trail is specifically mentioned as a valuable
15 resource, and it does mention, certainly, identify the
16 scenic values as a very important part of that value.

17 Q. So in this proceeding -- I'm not talking about
18 Black Nubble here -- you are advocating that the
19 Commission use a methodology for judging mountain areas
20 that include visual impacts and consideration of mountains
21 that have certain land forms, vegetation, and water
22 features; correct?

23 A. I'm a little confused by the question, but clearly I
24 believe that we need to have a methodology that identifies
25 the particular resources that contribute to a region, and

1 some of those will be resources that contribute to some
2 unique or outstanding qualities, and others will
3 contribute to the general scenic quality.

4 I certainly don't deny that this is a scenic area.

5 Q. Again, you did say in your testimony, the rebuttal
6 testimony, certain combinations of land form, vegetation
7 or water features result in natural or cultural features
8 that are particularly distinctive. This is not the case
9 here.

10 You did say that; correct?

11 A. I think I'm understanding now what your question is.
12 Okay. That probably was not very well written the way I
13 wrote it.

14 I did not mean to say that the land forms, vegetative
15 patterns, and water features don't contribute to the
16 quality in this area.

17 What I meant to say is that the combination, the
18 particular combination, does not rise in this particular
19 setting to an outstanding scenic resource.

20 Q. When Mr. Kimber wrote on Page 10 of his direct testimony
21 that there are 15 mountains between 3500 feet and 4000
22 feet, and 22 mountains between 3000 feet and 3500 feet in
23 Franklin County alone, was it correct that you thought
24 that he was not applying valid criteria for making a
25 determination as to which of those mountains were worthy

1 of protection?

2 A. Well, I think my concern was that, yes, this is an area
3 with many, many mountains, and many, many wooded mountains
4 of varying heights, some higher than others.

5 But there are no particular mountains that are
6 identified as having particular values. They all
7 contribute certainly to the character of that area but
8 none of them -- this is sort of -- that is the character
9 of this area, many, many, many mountains that of that kind
10 of slightly lower range, 3000 to 4000 feet, that are
11 characteristic of this area.

12 I don't see -- I didn't see -- I don't see anything
13 that identifies any particular one of those mountains or
14 anything in that region in terms of the mountains having
15 particular significance.

16 Q. You wrote on Page 5 of your rebuttal to his testimony,
17 when everything is unique, unfortunately nothing is;
18 didn't you?

19 A. Yes, that's part of the problem without being able to --
20 if everything had become a focal point -- I'll give you a
21 classic example of strip development -- every business is
22 trying to be a focal point. So what you get is -- I can't
23 say this is a mess, this is a lovely scenic landscape --
24 but ends up standing out and being distinctive.

25 It's just a wash of signs and buildings. None of

1 them -- they're all trying to be and therefore none of
2 them are.

3 Q. Looking at it another way, do you think that an area the
4 size of Franklin County with that number of mountains over
5 3000 feet is unique?

6 A. With that -- I think that that is -- I think it is
7 certainly an important area within Maine.

8 I mean -- but I think that when I look at a
9 landscape -- and I mention this in my rebuttal -- all
10 landscapes do have distinctive characteristics, and we
11 need to be looking at the distinctive character of an
12 area.

13 When I do a visual impact assessment, I'm always
14 looking at what is it that is distinctive about this
15 particular area, and they all have something distinctive
16 about them.

17 So if we look -- what I try to do is to look at are
18 there particular resources that are -- that would be
19 effected in a way that really have a drastic effect on the
20 region as a whole, and because of the numerous number of
21 mountains in this area, I think in this particular case
22 we're really having an impact on a very, very small part
23 of that overall resource.

24 Q. Do you disagree with Mr. Kimber that the mountain region
25 in Franklin County, in fact, western Maine, has statewide

1 significance?

2 A. I would think that that's probably true of most regions of
3 Maine, that they have -- I mean, there's the coastal
4 areas, sort of farm land areas.

5 All of them have their own kind of significance that
6 is important and contribute to the whole, which is Maine.

7 There are -- certainly the general mountain areas are
8 very important and contribute to the scenic quality of
9 Maine.

10 Q. Are there areas along the coast of this size that have
11 this many mountains over 3000 feet?

12 A. No, and I think that's my point, that every area has its
13 own kind of distinctive quality. They all contribute to
14 the state of Maine.

15 Q. But you would acknowledge that the character of western
16 Maine, the mountain county, is then defined by the
17 mountains; correct?

18 A. I would say that's true, yes.

19 Q. On Page 3 of your rebuttal, Ms. Vissering, you say there's
20 no protected land within the immediate project area;
21 right? If you want to check that, you may.

22 A. Yes, I did say that.

23 Q. So you don't consider the P-MA zone designation to be
24 protected, do you?

25 A. Here's what I mean by protected I guess. I would -- I was

1 thinking about parks, the -- they're all protected in a
2 little different way, the Maine Preserve Lands, those
3 kinds of protections that have to do specifically with
4 scenic quality in some way.

5 In other words, I'm looking at the visual resources,
6 so I'm looking for protected land that is protecting some
7 visual impact.

8 Q. So you don't consider the P-MA zone designation to be
9 particularly protective of scenic resource; is that right?

10 A. The protected land is -- I do think that it is -- I think
11 it's probably fair to say that it is protective of some of
12 the high scenic values. It is applied to every elevation
13 above 2700 feet as opposed to something that is a
14 particular resource, such as Mt. Blue State Park, or some
15 of the Maine Preserve Lands.

16 I think your point is fair in the very general sense
17 but I think that the -- setting aside of a particular
18 piece of land as a park, as a specific park or trail, it's
19 very particular to the particular area involved.

20 Q. In your direct testimony for this proceeding you refer to
21 Chapter 315 of the DEP regulations; right?

22 A. Yes.

23 Q. Do you believe that the DEP rules are the legal criteria
24 for evaluating this project by LURC?

25 A. I'm less familiar with how your proceedings work here. My

1 understanding is that it is not -- these are not the
2 criteria that are used except in the incorporated towns,
3 but I may be wrong about that.

4 Q. Well, are you aware going back to what is included in
5 LURC's statute in the criteria for approval for rezoning
6 that there actually are some applicable sections in DEP's
7 statute?

8 A. I guess -- yes, I did realize that.

9 Q. So you realized that were some that were applicable to
10 LURC starting at Section 480-A, Title 30-A, going to 480-B
11 that apply to LURC; correct?

12 A. Generally, yes.

13 Q. Well, let's start with 480-A because this is the findings
14 and purpose declaration.

15 MS. BROWNE: Are you talking about NERPA?

16 BY MS. PRODAN:

17 Q. Again, in LURC's statute in Section 685-B-4-A, there are
18 some applicable sections and this was referenced in the
19 criteria for the project list we got.

20 Starting at Section 480-A, this is the purpose and
21 findings and purpose declaration for the statute regarding
22 protection of natural resources.

23 Can you read the first paragraph for 480-A, please.

24 A. The legislatures finds and declares that the State's
25 rivers and streams and great ponds, fragile mountain

1 areas, fresh water wetlands, significant wildlife habitat,
2 coastal wetlands, and sand dune systems are resources of
3 State significance.

4 These resources have great scenic beauty and these
5 characteristics unsurpassed recreational, historical, and
6 environmental value of present and future benefit to the
7 citizens of the State, rapid degradation and some cases
8 the destruction of these critical resources producing
9 significant adverse economic and environmental impacts and
10 threatening the health and safety and general welfare of
11 the citizens of the State.

12 Q. In the interest of time, could you please read the last
13 sentence of 480-A?

14 A. The one that begins the legislature further?

15 Q. Yes.

16 A. The legislature further finds that the cumulative effect
17 of frequent minor alterations and occasional major
18 alternations of these resources poses a substantial threat
19 to the environment of the economy of the State and its
20 quality of life.

21 Q. Now, could you please read the definition of fragile
22 mountain area, which is under 480-B-3?

23 A. Fragile mountain area. Fragile mountain areas mean areas
24 above 2700 feet in elevation from mean sea level.

25 Q. And then I would ask you to read this last section

1 finally, 480-E-1. Just the first paragraph should be
2 enough.

3 A. The Maine Land Use Regulation Commission shall issue all
4 permits under this article for activities that are located
5 wholly within its jurisdiction and are not subject to
6 review and approval by the Department under any other
7 article of this chapter.

8 Q. Thank you. Would you agree that the Kibby project area
9 includes areas over 2700 feet?

10 A. It does include areas over 2700 feet, yes.

11 Q. Would you agree, then, that they are fragile mountain
12 areas?

13 A. I would agree that they are technically classified as
14 fragile mountain areas. I don't necessarily agree that
15 they in fact are fragile mountain areas.

16 Q. You stated on Page 16 of your testimony than when a
17 resource is identified in local, regional, or State
18 planning documents, it implies a public consensus as to
19 the value and importance of that resource; correct?

20 A. I'm sorry, would you repeat that?

21 Q. Sure. You stated on Page 16 of your direct testimony that
22 when a resource is identified in local, regional, or State
23 planning documents, it implies a broad public consensus as
24 to the value and importance of the resource; correct?

25 A. Yes, that's correct.

1 Q. Can you think of any stronger statement of broad public
2 consensus as to the value and importance of a resource
3 than a finding made by the Maine legislature that fragile
4 mountain areas are resources of State significance?

5 A. I think that, first of all, this is -- we've been reading
6 one aspect, of course, of the values, and I do think that
7 these are very important values that need to be taken very
8 seriously by the Commission.

9 I think that there are clearly other values that have
10 been specifically stated in the CLUP that recognize that
11 there may be appropriate times in which these resources
12 need to be considered for other uses.

13 The problem with these -- when I speak of sort of
14 something of kind of agreed-upon consensus -- this is
15 clearly, clearly one level fairly that's applied to a
16 fairly broad area of the state and recognizes scenic
17 values and fragile values.

18 At the same time, from a visual point of view, with
19 looking at wind energy projects -- and you're looking at
20 where the wind resources -- they're very likely going to
21 impact some of these areas, so you have -- I think that
22 you have to make some decisions as to what sort of
23 balances here.

24 But when I'm looking at doing a visual assessment, I
25 think that there are certain resources for which rise --

1 which rise to the level of a particular value for their
2 specific scenic and recreational values.

3 This is a general scenic value and ecological value.
4 I look at specific, and what we refer to in the
5 legislation in Vermont has been a clear written community
6 standard with respect to aesthetics. It can't be a broad
7 goal, we need to protect the rural character of the area.

8 So when I'm looking through the CLUP, I'm looking at
9 resources for some specific guidance as to what are
10 resources that really stand out that have been mentioned
11 by name.

12 The fact that there are many of these ridgelines --

13 Q. Excuse me, Ms. Vissering --

14 MS. PRODAN: Mr. Harvey, I'm just going to restate
15 the question.

16 Q. Can you think of any stronger statement of broad public
17 consensus as to the value and importance of a resource
18 than a finding made by the Maine legislature that "fragile
19 mountain areas" are "resources of State significance"?

20 A. Well, I think I answered that earlier.

21 Q. So you would still say that there is a lack of any clear
22 public documentation -- that's the wording you used in
23 your testimony -- of the particular scenic or recreational
24 value of this mountain or its surroundings; correct?

25 A. No, I think what I -- I'm not the one to make the

1 interpretation of this, but this is clearly the value that
2 is the higher value -- there has been a strong recognition
3 of the value of these areas, but that it is also true that
4 there have been other values that have also been stated
5 that there may be certain situations where there are
6 perhaps a higher value for use in a few instances of high
7 elevation terrain, and I think these are -- I don't think
8 that this is a blanket absolute no.

9 There was clearly stated in the CLUP that there may
10 be instances where there really is some other values that
11 have to be considered and they have to be weighed on an
12 individual basis in terms of the particular resources
13 involved in the particular setting.

14 Q. Ms. Vissering, you are a landscape architect; correct?

15 A. That's correct.

16 Q. My dictionary, can I give you the definition and see if
17 you agree with that?

18 American Heritage Dictionary, third edition, A
19 landscape architect is one whose professions is decorative
20 and functional alteration of the planting of grounds,
21 especially at or around a building site?

22 A. Well, I like to do that, too.

23 Q. Is it safe to say that --

24 A. Excuse me --

25 Q. -- generally the work of a landscape architects deals with

1 the built environment?

2 A. I think -- actually I think that a better definition would
3 be the integration of the built and natural environment is
4 really the focus.

5 Q. Do you have any training in evaluating the value of
6 remoteness in landscapes?

7 A. Well, my training is really, and my focus has been on
8 visual values, and I think the concept of remoteness kind
9 of seeps into it to some extent. I think remoteness is a
10 broader aesthetic recreational and almost perhaps a
11 spiritual kind of concept.

12 It is one that I have thought about. I cannot,
13 though, claim to be an expert in this area.

14 Q. So you can concede that values other than visual can be
15 found in an undeveloped area; correct?

16 A. Yes.

17 Q. When you said there would be no undue adverse aesthetic
18 impact within the surrounding landscape, did that include
19 a conclusion about the impact the project would have on
20 remoteness?

21 A. I did think about the issue of remoteness as I was writing
22 my testimony because I knew that this was of concern, and
23 I believe I did write a paragraph on that in my testimony.

24 I think I addressed it to some extent in my rebuttal
25 testimony.

1 Q. You say on Page 32 that other ridges were considered for
2 development but rejected in order to retain a project of
3 responsible scale in relationship to the surroundings;
4 correct?

5 A. Yes.

6 Q. What document by reasonable scale?

7 A. Well, in this particular case -- as you heard in the
8 beginning opening presentations -- there had been
9 consideration of what were referred to Series B, C and D
10 as part of the project, and those were rejected for a
11 variety of reasons, but certainly I think one of them was
12 project scale.

13 Now, scale is a -- from a visual point of view, it's
14 also a visual concept in terms of how the project is
15 perceived in the landscape.

16 I think I mentioned in my opening presentation that
17 because just the nature of the position of these two
18 ridges in the landscape and the fact that Kibby Range has
19 that wishbone shape, there are very few places where you
20 see the entire project.

21 So even though this is 44 turbines, there are very,
22 very few places where in which you see 44 turbines. The
23 most you may see is maybe 10; from most vantage points you
24 see at one time around 10 or 12 at most.

25 Q. On Page 5 of your rebuttal testimony, Ms. Vissering, you

1 conclude that, "The relatively low elevation of these
2 mountains and their low visibility from critical viewing
3 areas makes them an excellent site for a wind project"; is
4 that right?

5 A. Yes, it is.

6 Q. How do you reconcile this statement with your statement in
7 your direct testimony on Page 19 that on these large
8 mountains of Maine the turbines would appear relatively
9 small?

10 A. Low is a relative term of course. I had been working on
11 the Black Nubble case, in which case we were talking
12 mountains over 4000 feet.

13 So that is, in terms of this part of Maine, these are
14 relatively low mountains; but on the other hand they are
15 big mountains.

16 So, in other words, when you look at a wind turbine
17 on a large mountain, it's relative size seems fairly small
18 in relationship to the land form. That's a certain amount
19 of perceptual matter, I guess.

20 I mean, if you were in eastern Maine, these would be
21 huge mountains, but in this context these are relatively
22 small mountains when you look at compared to the Bigelows
23 and the Longfellows.

24 Q. I want to ask you about the transmission line. On
25 Page 32, you indicated that the transmission line would be

1 minimally visible offsite; is that correct?

2 A. That's correct.

3 Q. Do you consider a 27.7-mile long transmission line to be a
4 reasonable scale?

5 A. Well, when I look at the scale, I look at not how actually
6 long it is, but I would look at to what extent would it be
7 viewed in the landscape.

8 I think the relevant issue from my perspective is, do
9 we experience this along in open meadows along 27 miles,
10 or do we barely see it in the landscape, which I think the
11 latter is the case.

12 Q. I want to look at the table of views under Tab C of your
13 testimony, if you could look at that, please.

14 The third page in for vantage point 17 for the next
15 question. This is your simulation from the Bigelow Range;
16 correct?

17 A. You're looking at the table?

18 Q. The table, Tab C.

19 A. I'm there.

20 Q. Visual simulation 17. You say that clearing -- in the
21 notes for this -- clearing for the transmission line
22 through the Bigelow Preserve may be visible from some
23 vantage points on the Bigelow Range; do you see that?

24 A. Yes, I do.

25 Q. But vantage point 17 is looking north; right?

1 A. Yes, it would not be visible within the view of the
2 simulation. I was just looking broadly in that statement.

3 If you're on top of Bigelow Range and you look in the
4 other direction, you might be looking down and you could
5 possibly see some of the portion of the line clearing
6 area.

7 Q. How did you go about assessing the visibility of the
8 transmission line for visual impact?

9 A. Mostly from the -- for the most part I was looking at the
10 visibility at points across the road. I also looked at
11 topography and to see what topographic features would be
12 screening the transmission line from view from important
13 viewing areas.

14 Q. Were you asked to look for visual impacts from the
15 transmission lines from any particular vantage points?

16 A. No, I was not. I made some assumptions that probably the
17 trails in the Bigelow Range where there was some
18 possibility could be one sensitive viewing area for that.

19 Q. From vantage point 17 looking north, is this one of the
20 locations where you say all of the towers and turbines
21 would be visible?

22 A. From -- that is true. From the -- from the Bigelow Range
23 we're talking, I think that is about 18 miles away. I
24 believe that it's really, really, really tiny at that
25 distance but you could probably see -- that would be one

1 of those where you could see all of the turbines.

2 Q. I think in your presentation this morning you showed the
3 site from Avery, the visual site?

4 A. Yes, I did.

5 Q. From Avery Peak; correct?

6 A. Yes.

7 Q. Actually, you have in your testimony Photos 17-A and 17-B,
8 correct, that don't have a simulation but have the view;
9 correct?

10 A. Yes.

11 Q. Could you turn to those? They're under your Tab G.

12 MS. BROWNE: In the testimony?

13 MS. PRODAN: Yes, Jean's direct testimony, Tab G.

14 THE WITNESS: I've got it.

15 BY MS. PRODAN:

16 Q. Are you at Photo 17-A?

17 A. Yes.

18 Q. From this vantage point it says in the caption, the ridge
19 appears lower than the background ridges; correct?

20 A. Yes.

21 Q. Flipping to 17-B, is that still true with 17-B also?

22 A. Yes.

23 Q. So we see from West Peak and Avery Peak the Kibby project
24 ridgelines are below the background ridges?

25 A. Yes, that's correct.

1 Q. In a situation like this where the ridges appear lower
2 than background ridges, this means that the towers and
3 turbines, which are white, would contrast with the
4 background; correct?

5 A. Yes. It would be one of the reasons you would be able to
6 see them, they only reason, because they're white.

7 I think this is a really great distance, and I have
8 no experience looking at these from such a great distance
9 in actuality. I think I may have said once you get at
10 these distances, it's definitely getting very far away.

11 I do know, as I testified in the Black Nubble case,
12 that from about 10 miles away, almost 10 miles away, the
13 Glastenbury fire tower in Vermont looking at the existing
14 Searsburg turbines, you can -- I mean, they're really hard
15 to pick out, but you can see those turbines.

16 One has to assume that with probably the larger
17 turbines would also be physical very faint lines. If you
18 didn't know what you were looking at, it would be very
19 hard to pick them out. On a very clear day I would think
20 that they will probably show up.

21 Q. Let's go back to the boundary mountains. What do you
22 think is the viewer expectation of someone that has read
23 the AMC Maine Mountain Guide that refers to the wilderness
24 area around Kibby Mountain?

25 A. The expectation? Well, I hate to speak for the

1 generalities of somebody picking up one of those guides.

2 Q. Withdraw the question then.

3 Is this one of those -- is this area, the project
4 area, not an area with hardly any structures?

5 A. I apologize, could you repeat that?

6 Q. Sorry, I'll rephrase it.

7 Isn't it correct that this is one of the few areas
8 that you've looked at in your visual assessments with
9 hardly any structures?

10 A. Which area?

11 Q. The Kibby Mountain area.

12 A. And you're saying is it one of the --

13 Q. In your experience doing assessments, isn't this one of
14 the few areas that you have seen with hardly any
15 structures?

16 A. Well -- one of the few areas -- I would certainly say that
17 the two experiences I've had looking both for the
18 Black Nubble project and this one have certainly
19 relatively few structures.

20 This is a very different kind of landscape,
21 certainly, than I'm used to in Vermont. We have towns --
22 much more sort of settled landscapes; so yes.

23 Q. So it's one of the most undeveloped areas you have worked
24 on, isn't it?

25 A. One of the most undeveloped -- there are some pretty wild

1 areas around the Deerfield project -- Searsburg now --
2 Deerfield in Vermont.

3 It's very different but it's certainly -- you have a
4 lot of National forestland around there, a wilderness
5 area.

6 It's a little hard for me to make that general
7 comparison but I would certainly -- I would certainly not
8 deny that this is an area that does not have -- is not
9 dominated by structures. It is not a predominantly built
10 landscape.

11 Q. Back in the Redington proceeding over a year ago, did you
12 not point out that with regard to the area near Redington
13 that even though -- I'm quoting here -- there's quite a
14 bit of evidence of logging, but logging is a sort of a
15 loose cavern of different vegetative colors. It's not a
16 structure and that's a big difference, I think.

17 Even where you don't have that area where very little
18 is going on, you still don't see -- from most places along
19 the trail -- you don't see structures, you see this sort
20 of developing pattern of vegetation.

21 Do you recall your testimony --

22 A. Yes, absolutely. And if you recall in my testimony, I
23 have never used -- I have never said that I think that the
24 logging patterns in this -- and the forestry patterns --
25 in this area -- in the Kibby project, either -- influenced

1 my visual assessment. That was not an argument that I
2 made in this case either.

3 I would agree that these are kind of different --
4 these are different types of uses. They are -- now, there
5 is a fair amount of -- I think to the general degree as
6 you approach the general Kibby area, you are experiencing
7 a very different landscape from one on the Appalachian
8 Trail where you are coming off the road and you are in
9 pretty much a wooded, a pretty protected landscape for up
10 to the 34 miles of that section.

11 Whereas here, to approach, for example, the -- to
12 approach, for example, Kibby Mountain, you're driving
13 along Gold Brook Road and we all saw what Gold Brook Road
14 is like.

15 So the expectation going into that area is a series
16 of little short hikes, which you access via a landscape
17 that does include a lot of truck traffic.

18 It may not be developed with structures, but it's a
19 different experience than hiking along a trail where you
20 do have the clear expectation of being pretty much in a
21 landscape that you're either in trees or seeing gorgeous
22 views.

23 Q. You would agree that the viewer expectation in the Kibby
24 project area is that one is not going to be seeing any
25 structures; correct?

1 A. You're certainly not seeing structures but you certainly
2 are seeing large log piles up in that area.

3 I think there -- I think I will stick to what I said
4 before because I think in general, when you're on the
5 Appalachian Trail, you have a very different experience
6 than you do approaching those trails -- approaching those
7 trails, for example, at Kibby Mountain.

8 You're right, there are no built structures there --
9 well, we did pass one. There's an old camp there, that
10 kind of thing, but by and large it's not a landscape that
11 is a residential area or a built area in terms of
12 buildings.

13 Q. So seeing a part of the towers, blades, or turbines would
14 undo the expectation of not seeing large built structures,
15 wouldn't it?

16 A. Well, that -- I mean -- I guess in that statement you're
17 assuming that that is an expectation in that landscape,
18 which is -- that is what the reason that people are coming
19 to that landscape.

20 I think that is probably true for some people who
21 come up into that area. There's clearly -- and I'm sure
22 you've heard that there are people who are interested in
23 coming up into that area for a remote experience, but on
24 the other hand, there are -- as I mentioned earlier, the
25 uses are very diverse in terms of people coming up here

1 and that use is very low and I think that you continue to
2 have that expectation as you're going to be on a road with
3 a lot of logging equipment, a lot of logging kind of
4 equipment, and that sort of thing up in that area as you
5 approach the few trails that are up there.

6 Q. In your direct testimony you say that wind generation
7 facilities are not places with a lot of activity, don't
8 you?

9 A. Yes.

10 Q. Are you expecting there to be a lot of downtime when the
11 turbines and blades are not operating?

12 A. Oh, I didn't mean that they wouldn't be operating. The
13 turbines will be turning, but what I meant by that, for
14 example, if you think of a residential development, you
15 have people -- people -- lawn mowers, constant coming and
16 going of traffic.

17 I'm sort of guessing that the Kibby wind project will
18 be a lot like the Searsburg project or other projects that
19 I've seen where there's very little -- I mean, you have
20 maintaining it and you have occasional maintenance.

21 These are very, very un -- there's not a lot of
22 traffic associated with them, there's not a lot of lawn
23 mowing or dog barking or the kinds of things you would
24 have with a residential development.

25 That's what I meant is they tend to be very quiet,

1 and I've been around a lot of them. Occasionally they do
2 make noise, but generally they're very quiet.

3 If you're in the trees, you know, fishing, hunting,
4 fishing on streams, hunting in the woods, you could be
5 wandering around bushwhacking up one of the mountains.
6 You could spend a lot of time in that country back there
7 and be completely unaware of them.

8 Q. In terms of visual impacts, if you are there and looking
9 at them, they do move, don't they?

10 A. Oh, yes.

11 Q. And the blades are moving, the tips are moving at what,
12 200 miles an hour, something like that; correct?

13 A. Yes, although they appear very slow.

14 Q. And the blades and turbines will change direction with the
15 wind blows; correct?

16 A. They don't reverse direction, but they will turn into the
17 wind.

18 Q. So there will be visual activity in a portion of the
19 landscape where there was none before; correct?

20 A. I'm sorry, again?

21 Q. So would you agree that there will be visual activity
22 within the landscape where there was not any activity like
23 that before?

24 A. If you are talking about the blades, the turning blades,
25 yes, there would be that kind of activity.

1 Q. Thank you. And back to the table of views, Appendix C,
2 why did you choose these locations for views and not
3 others?

4 A. We -- I had used a number of techniques for determining
5 where to find viewpoints. There were several different
6 levels. There was sort of -- we had a number of people
7 who know this area very well that were working on this
8 project, and many of them are Maine guides and they spent
9 a lot of time guiding in this area and know a lot of
10 people in this area.

11 So I had the benefit of being able to hear from them
12 initially where are the places that people care about in
13 this area, and people in this area that know back country
14 know everywhere that you can see, get a viewpoint.

15 So I selected the ones that I thought would be -- in
16 an area like this you can't look at every single viewpoint
17 but, for example, they were very limited along the major
18 roadways and many roadways. I drove a lot of the roadways
19 to get a sense of the terrain and where you could see
20 things from.

21 We did have two open houses, and I constantly asked
22 people, well, where should I go look, what do you care
23 about, where should I -- and people pointed out areas that
24 they said I should take a look at. So I relied on that.

25 Then, of course, the issue of the ponds, we realized

1 that from some of the more remote ponds there was no
2 visibility, as I mentioned in my presentation, so we
3 selected a Management Class 2 ponds because they seemed to
4 have been identified as having particular value. They
5 seemed to me that in this landscape they were one of the
6 key resources.

7 So that was a focus.

8 Q. A number of vantage points that are quite proximate to the
9 project Map 1, such as Aziscohos Mountain, Spencer Bale,
10 Antler Hill? You did not evaluate them, did you?

11 A. I selected mountains that I knew to have -- or I heard had
12 views at the top, and actually when I asked, I spoke
13 specifically with Friends of the Boundary Mountains at the
14 open house, and I said, well, where should I go to take a
15 look, Kibby Mountain is where you should go.

16 So that's what I did and I felt as though the -- I
17 think that was probably the worse-case scenario being very
18 close, looking out, and then probably the views from Snow
19 and Tumbledown, which are the only other two that have a
20 fire tower so you could get a view in the vicinity, were
21 probably going to be -- they're further away, the impact
22 would not be as great as Kibby.

23 Q. When you evaluate potential views, do you consider the
24 value of views that may be in the future important, such
25 as many of the mountains in the region that you didn't

1 visit because they don't have names or trails that people
2 use?

3 A. No, I do not consider -- unless there's some specific plan
4 for a trail going to the top of a mountain, and then I'm
5 not sure that I would take it as seriously as an existing
6 trail.

7 I didn't -- I never heard of any plans for trails up
8 into the mountains, but I think that you have to work with
9 the recreational resources that exist.

10 Q. Did you take into account any lighting of the turbines or
11 blades in your analysis?

12 A. I did in my -- I do discuss lighting in the -- in my
13 testimony.

14 Q. Have you been to the project area at night?

15 A. I -- let me think if -- at night -- no, I think I have not
16 been at night.

17 MS. PRODAN: Thank you.

18 Mr. Goulet, I want to ask you questions about your
19 rebuttal comments.

20 EXAMINATION OF COREY GOULET

21 BY MS. PRODAN:

22 Q. You referred to -- Mr. Goulet, in your rebuttal comments
23 you objected to Mr. Kimber's characterization of the
24 project as massive and permanent, didn't you?

25 A. Yes, I did.

1 Q. Can you please give us an example of what you think of
2 that's a massive and permanent impact?

3 A. Well, I think the reason that I made the comments I did is
4 because these impacts are no more massive or permanent
5 than the logging activities that are currently undertaken
6 there, and I think Mr. Kimber mentioned the fact that
7 these were more massive, more permanent activities than
8 are currently being used for which the area is currently
9 being used.

10 Q. So do you think that in Maine the effects of logging are
11 permanent?

12 A. No.

13 Q. So you do understand that trees grow back in Maine;
14 correct?

15 A. I understand that, yes.

16 Q. You are from Alberta, aren't you?

17 A. I am.

18 Q. Do you consider the oil sands development to have massive
19 and permanent impacts?

20 A. I believe that the oil sands has some impact. It's
21 localized to the area around the facilities themselves. I
22 don't know if you would characterize that as massive or
23 not.

24 Q. Are they permanent?

25 A. Some of the ponds associated with them will be relatively

1 permanent, yes.

2 Q. In your testimony -- I can't remember whether it was in
3 your rebuttal or direct -- but you indicated you expect
4 operations of the Kibby project to cease in the future; is
5 that not correct?

6 A. That's expectation. At one point it will finish its
7 commercial life and it will cease.

8 Q. Will you agree that if the turbines are built, they'll be
9 there until they're taken down, if they ever are taken
10 down?

11 A. They will be removed when the project ceases to be
12 commercially viable.

13 Q. One of the other things that you focus on in your comments
14 is how small this project is; is that correct?

15 A. You'd have to point me to the quote.

16 Q. Do you feel that this is a small project and the impacts?

17 A. I think given the wind resource and the energy that it
18 produces, it has a relatively small footprint.

19 Q. So you are talking about footprint when you talk about the
20 impact -- the permanent impacts of the project; correct?

21 A. Relative to the energy that it produces, yes.

22 Q. Let me ask you this: Do you consider that the Empire
23 State Building has a relatively small impact on the
24 landscape compared to other buildings that are not
25 skyscrapers?

1 A. You know, having only been in New York a couple times and
2 it's changed a little bit in the probably 10 years that
3 I've been there, I would say the Empire State Building has
4 relatively little impact relative to all of the other
5 buildings in the area.

6 Q. Besides the approximately 30 acres in the protected
7 mountain area subdistrict that would be permanently
8 impacted, in your testimony it indicates that the
9 construction would require -- excuse me, that was actually
10 in the application, I don't know that it was in your
11 direct testimony -- but based on the application, there
12 will be three rock crushing plants at 3 acres each; is
13 that correct?

14 A. I believe that's correct, that's in the application.

15 Q. And a temporary material handling and storage area --
16 actually there could be several -- totalling 20 acres; is
17 that correct?

18 A. I don't have that right in front of me but I believe
19 that's the correct number.

20 MS. PRODAN: Mr. McCrea, does that number sound
21 correct to you?

22 MR. McCREA: Again, I don't have the number directly
23 in front of me, but it sounds like it and that number is quoted
24 in our submission.

25 BY MS. PRODAN:

1 Q. Thank you. Then there would also be the temporary laydown
2 areas also and the number is 18 acres; correct?

3 A. That's correct.

4 Q. So we're at 247 acres just with these construction areas,
5 and these have to be levelled; correct?

6 A. If the ground isn't already level, then there may be some
7 levelling required. I think these areas -- there's a
8 table in the application that shows all of the affected
9 areas, both temporary and permanent, and these areas you
10 just quoted are included in the temporary areas to be
11 affected by the project.

12 Q. Let me just clarify that these areas to support the
13 construction that have to be levelled are going to remain
14 in the levelled condition; isn't that correct?

15 A. If they have to be levelled, they'll remain as they're
16 levelled. The plan is to allow these areas to revegetate
17 after the construction is complete.

18 Q. But you don't expect to restore the original contours of
19 the site where the rock crushing plant is located,
20 temporary storage, or laydown areas; do you?

21 A. We don't plan to restore the contours if they're altered.
22 I visited the site, I looked at some of these sites. I
23 don't think most of them will require that much levelling.

24 Q. In your rebuttal testimony you say that the total
25 permanent impacts of the wind power project is

1 approximately 89 acres, and you base that on the table in
2 Mr. McCrea's testimony at Tab B; is that correct?

3 A. That's correct. And I think that table was also in the
4 submission.

5 Q. Does this include the road widenings?

6 A. I think it does include the road widenings on the existing
7 roads such as Spencer Bale and Wahl, and the Gold Brook
8 Road itself, yes, it does. I think there's some road
9 widenings and there's also some turnoffs, 15 in
10 particular, along Gold Brook Road that are required.

11 Q. So in the permanent impact areas where you're including
12 roads, are you also including the areas of cut and the
13 areas of fill to support the road?

14 A. The permanent road impact -- those areas of cut-and-fill
15 will be revegetated and therefore will not be included in
16 that 89 acres.

17 Q. So the areas that are being revegetated but that have been
18 contoured or built up are not included in your total of
19 permanent impact to the project area; is that correct?

20 A. I believe that's correct.

21 Q. When you expect that -- strike that.

22 When the wind power operations cease in the future,
23 you say the turbines and collection lines will be removed
24 and the site will be allowed to revegetate completely; is
25 that right?

1 A. That's correct, yes.

2 Q. At that time will the original contours on the ridges be
3 restored?

4 A. No, they will not. They will be allowed to revegetate
5 similar to the vegetation that occurs on the logging roads
6 or other access roads to the area that are unused.

7 Q. How about the 34-foot wide road structures on the
8 ridgeline, will those remained in the unrestored state?

9 A. Those will be allowed to revegetate but they will not be
10 recontoured.

11 Q. Will the concrete associated with the turbine's foundation
12 be removed?

13 A. The concrete will be removed below the surface of the
14 ground.

15 Q. Could you explain that a little more?

16 A. By that, we'll remove the concrete to a foot or two below
17 the existing grade and then material will be placed on top
18 of the concrete foundations and the ground will be allowed
19 to revegetate.

20 Q. How likely is the idea that the turbines will disappear in
21 another 25 years?

22 A. I can't speak to the likelihood or not. I anticipate that
23 at some point in the future this project will cease to be
24 commercially operational, and therefore they'll be
25 removed.

1 Whether that's 20 years, 25 years, or 30 years, I
2 can't speak to. I can't predict what the future's going
3 to be. At some point they'll be removed.

4 Q. On Page 2 of your testimony you said that it's your
5 responsibility to see that the project meets the
6 environmental permitting requirement; is that correct?

7 A. That's correct. I've put a project team in place, and one
8 of their objectives is to be sure that they meet the
9 environmental requirements of the project.

10 Q. And on Page 8 is where your timeline is; correct?

11 A. I believe that's correct, yes.

12 Q. You say that you need to order turbines by the end of this
13 year; is that right?

14 A. We need to order turbines early next year if we're going
15 to make the project goal of completing the construction by
16 the end of 2009.

17 Q. It also says there you expect to start clearing and
18 grubbing in the first half of 2008; is that right?

19 A. That's correct.

20 Q. In fact, it would be completed in the first half of 2008;
21 right?

22 A. Yeah, the clearing and grubbing will be associated with
23 the construction of the roads. There might be some
24 clearing and grubbing that extends into the third quarter
25 if this project timeline is maintained, but the majority

1 will be completed in the first half if we can follow this
2 timeline.

3 Q. Are you aware that a rezoning approval would just be the
4 first step of this project and a final development plan
5 would have to be submitted and approved by LURC before you
6 can start construction?

7 A. I'm aware of that, yes.

8 Q. Are you aware that a number of components of the project
9 are not actually located within the area proposed to be
10 rezoned?

11 A. No, I understand there's some components that need to
12 be -- that are in different jurisdictions and have to be
13 approved by other jurisdictional bodies.

14 Q. Well, in terms of permits from this body, have you been
15 made aware of the need for permits for these other
16 components separate from the rezoning process?

17 A. I'm aware of that, yes.

18 Q. You're also aware of a need of a permit from the Army
19 Corps of Engineers?

20 A. I am.

21 Q. Why doesn't the timeline reflect these regulatory matters?

22 A. I think I focused on the execution plan in this
23 particular schedule. I didn't focus on the actual
24 approval process.

25 I think in my presentation today I did show a bar

1 chart that indicated the approval process would have to go
2 into 2008, and it would take probably the first quarter to
3 complete.

4 Q. Are you aware of the concern of the Army Corps of
5 Engineers that was made in comments to the staff of LURC
6 that there appear to be no clear discussion of the
7 potential indirect impacts from this project?

8 A. I'm vaguely aware of those comments, but I can't say that
9 I've read about them specifically anywhere.

10 Q. Do you plan to take into an account -- or at least do an
11 analysis -- of the indirect or secondary impacts of the
12 this project for the Army Corps?

13 A. Certainly. We'll do all the analysis that's required from
14 the Army Corps requirements.

15 MS. GRESOCK: Corey, I hope you don't mind if I
16 address this. This is Lynn Gresock speaking.

17 We're very aware of the comments that were supplied
18 to LURC by the Army Corps of Engineers. We're also aware that
19 the Army Corps' regulations and the way they address issues are
20 a slightly different regulatory framework with different
21 requirements in the way different sorts of impacts are looked
22 at.

23 The DEP, of course, also needs to review and has
24 essentially completed their review of the portion that's within
25 their jurisdiction, and their framework differs a little bit as

1 well.

2 So yes, to answer your question, when we put our Army
3 Corps application together, we certainly are going to be
4 meeting all of the Army Corps' requirements, and part of doing
5 that we are looking back at the specific comments that they've
6 provided in this case so that we can make sure that we're aware
7 of exactly how we've responded to those concerns in the various
8 conversations that we'll have following up with the application
9 with Jay and others who are involved with that review.

10 EXAMINATION OF LYNN GRESOCK

11 BY MS. PRODAN:

12 Q. Ms. Gresock, from your testimony, is it correct that
13 you're responsible for assuring that appropriate studies
14 are done to fully understand the potential for impacts?

15 A. I have been responsible for managing the environmental
16 studies, yes.

17 Q. And it's important to understand the cumulative impacts of
18 the development, is it?

19 A. Certain agencies have more or less emphasis on cumulative
20 impacts, but that's certainly something that is frequently
21 a consideration.

22 Q. So you don't intend to look at the cumulative impacts of
23 the development until after the LURC process is completed;
24 is that correct?

25 A. I'm not sure what you mean by cumulative impact in this

1 instance.

2 Q. Well, the Army Corps of Engineers expressed concern that
3 there's no clear discussion of the potential indirect
4 secondary impacts from the projects.

5 Are you aware of that?

6 A. All of those impacts actually have been considered.
7 Although, as you point out, this is largely a rezoning
8 proceeding at this time, TransCanada decided that it was
9 important to do a whole delineation of the wetland
10 resources, not only on the ridgelines but in the
11 transmission line corridor.

12 Part of our application process to LURC and then as
13 refined through that review process and part of our
14 application process to DEP and certainly refined further
15 through our application with the Army Corps, will all
16 continue to involve all of those considerations.

17 We are trying to be very careful not to look at any
18 individual elements of the project in a vacuum, and I know
19 the Commissioners don't need to consider, for example, the
20 DEP jurisdictional elements of the project; but we felt it
21 was important to include all of that in the application so
22 that you could consider in your decision making process
23 the entire scope of the implications of the project.

24 It's all part and parcel of what needs to be known.

25

1 BY MS. PRODAN:

2 Q. Mr. Goulet, in Appendix 7-J, this was one of the avian
3 studies, August 2005, Section I on Page 1 states that the
4 second -- a second phase is being planned that would
5 include a transmission line to Canada; do you recall that
6 plan?

7 A. I'm not aware of that plan at all.

8 Q. Do you want to refer to that reference in the application?

9 MS. GRESOCK: Can you tell me again which document
10 that is?

11 MS. PRODAN: This is in the application, Appendix
12 7-J, August 2005.

13 MS. GRESOCK: Appendix to that, I assume?

14 MS. PRODAN: No, Section I Page 11.

15 MS. GRESOCK: Certainly when we had our initial
16 agency conversations about the studies that were required for
17 this project, TransCanada firstly hadn't decided whether they
18 were going to move forward with the project at all since they
19 were still in feasibility review, and secondly --

20 MS. PRODAN: Excuse me, I just want to clarify.

21 Mr. Goulet, you don't have any knowledge of this?

22 MR. GOULET: No, I don't.

23 MS. PRODAN: Okay, thank you. Go ahead, Lynn.

24 MS. GRESOCK: Secondly we're still in the process
25 through that early evaluation phase of assessing various

1 interconnection locations trying to determine through the
2 studies that were being done exactly how the project should
3 look, what it would be configured like, and whether or not the
4 interconnection would look like it does today.

5 As the project studies progressed, that idea of a
6 potential second stage was abandoned, we were rating it in
7 early agency meetings because we wanted to make sure that as we
8 were talking about the scope of studies, we weren't overlooking
9 something that might have been a consideration.

10 We're very concerned to make sure that there couldn't
11 be an issue of segmentation or that to have been proposed
12 later. As it happens, there's no such phase that's currently
13 proposed and the project is only as is reflected in the
14 application.

15 MS. PRODAN: Whose decision was it not to build a
16 transmission line to Canada? Mr. Goulet or Mr. Di domenico,
17 who made that decision?

18 MR. Di DOMENICO: It was a collective decision. It
19 was my recommendation after studying that alternative.

20 EXAMINATION OF NICK Di DOMENICO

21 BY MS. PRODAN:

22 Q. Why not have that link instead of building a transmission
23 line to interconnect to the United States' grid?

24 A. It would complicate the project and reduce the project's
25 economics.

1 Q. But it's less than 5 miles to the boundary, is it not?

2 A. It's actually equidistance. That interconnection would be
3 in the Megantic sub which is equidistant to the Bigelow
4 sub.

5 Q. What are the issues that you refer to, the regulatory
6 issues?

7 A. The issues associated with permitting the line on either
8 side, you'd require Presidential permit for the
9 transboundary nature of that line, and the economics would
10 be inferior.

11 Q. So the decision was at least in part because of the
12 expected requirements of an environmental impact
13 statement, wasn't it?

14 A. No, it was principally because the economics would be
15 inferior.

16 Q. Is it TransCanada's position that it would be easier and
17 cheaper to get the transmission line permitted and built
18 through LURC jurisdiction and the small towns of western
19 Maine than to Megantic?

20 A. No, not at all.

21 Q. I thought you just said it was economics and regulatory
22 issues?

23 A. Economics are dollars and cents. The ease of permitting
24 is another thing.

25 Q. So it's just cheaper to build the transmission line --

1 A. It's not cheaper to build a transmission line. If you
2 look at project economics, the project in its entirety,
3 they are superior by delivering power into the market at
4 Bigelow, the New England market in Bigelow.

5 Q. Does that include the cost of payments to effected towns
6 and environmental groups in your analysis?

7 A. It includes all inflows and outflows of cash, that's
8 correct.

9 Q. If you do build a transmission line to Bigelow substation,
10 what is there to ensure that with the size of this wind
11 power plant it would not knock out the Boralex biomass
12 plant in Eustis and keep it from coming on-line because of
13 congestion?

14 A. We've looked at that. Obviously, my concern is that
15 project economics rely on all of our power getting to
16 market.

17 As this Commission's heard previously, the current
18 line is basically rated at 54 megawatts, this is a 20-mile
19 line between Bigelow and Wyman. It is currently sag
20 limited, so if you retention the line, it's summer rating
21 could be increased to approximately 135 megawatts.

22 In discussions with Central Maine Power, they
23 indicate that the winter rating of the line -- at
24 different temperatures -- would be approximately 170
25 megawatts.

1 We looked at the output of Stratton Energy through
2 public documents filed with the Energy Information
3 Administration, so we've looked at the output of the
4 facility over the five years by month.

5 That facility is approximately is 45-megawatt biomass
6 plant, it's a huge turbine basically. The capacity factor
7 of that facility ranges between 50 percent and 75 percent
8 over the last five years.

9 We've looked at the energy production expected from
10 the Kibby farm, hourly and monthly, based on information
11 provided by Garrad Hassan, and we're very confident that a
12 handful of hours, the power of both Stratton and Kibby,
13 can find its way to Wyman.

14 Q. So there still might be a handful of hours in your
15 calculation.

16 Has a study been done yet to determine?

17 A. That's an internal study. We've done that.

18 Q. So there has not been a study done for ISO New England?

19 A. The system interconnection study, which forms part of the
20 requirement before basically the facility is hooked up
21 into the ISO market, has been undertaken.

22 It's currently going through a second review at the
23 New England ISO. We would expect it to be completed late
24 this month.

25 What I can tell you is that study does conclude that

1 the power from this wind farm can be interconnected
2 without impacting the reliability of the system.

3 MS. PRODAN: Thank you. Mr. McCrea --

4 THE CHAIR: Pam, excuse me, it's 2 o'clock.

5 MS. PRODAN: Mr. Chairman, I received the order and
6 was allocated a certain amount of time, and I brought it to
7 your attention this morning that the written schedule is not
8 correct, and I asked for some tolerance on this.

9 THE CHAIR: You've had an hour and a half already, so
10 we've had 90 minutes since we've started. I've got a whole
11 bunch of other intervenors I assume who want to ask some
12 questions.

13 I think we've got to halt it at this point. How much
14 more do you have left, Pam? If you've got a couple of minutes,
15 that's one thing, but if you've got another half an hour or an
16 hour, I'm not going to let it happen.

17 MS. PRODAN: Well, a lot of it has not been under my
18 control with the responses being --

19 THE CHAIR: You ask long questions you get long
20 answers as far as I'm concerned.

21 MS. PRODAN: I just have a couple of questions for
22 Mr. Valleau and Mr. McCrea, that's all.

23 THE CHAIR: If you can ask a yes or no answer, we'll
24 let it go but don't push it.

25 MS. PRODAN: I guess I can't -- I've not been an able

1 to get yes and no answers.

2 THE CHAIR: You have to ask the questions in that
3 manner.

4 On my schedule I have CLF and Independent Energy
5 Producers. Do you have any questions?

6 MR. MAHONEY: We don't have any questions.

7 THE CHAIR: How about the Commission, members of the
8 Commission? In that case I'll let the Commission ask some
9 questions. Rebecca, have you got questions?

10 EXAMINATION OF COREY GOULET

11 BY MS. KURTZ:

12 Q. Mr. Goulet, you had mentioned that the roads -- the road
13 building calendar or time frame -- was from April of 2008
14 until November of 2008, and the State soil scientist
15 expressed a significant concern about the construction of
16 roads when the soil is frozen or saturated.

17 I was just wondering how you were going to get
18 around -- how you would address that concern given the
19 timeline that you've developed for building roads.

20 A. I think Mr. Rocque indicated the suitability of building
21 roads from May to October. I've added about a month on
22 either end. The first month would be kind of localization
23 of the contractor and no real earthwork would probably
24 occur -- or would occur during that time period.

25 The last month in November, at that time the actual

1 structure of the road would be constructed, and you'd be
2 out of the soils that Mr. Rocque was concerned about, and
3 you would have dealt with any groundwater, stormwater
4 issues that he talked about, and it might be just
5 associated with putting the final topping on the road.

6 Therefore, I don't think he or any other department
7 would have any concerns with that activity in the November
8 time period.

9 Q. What Ms. Prodan was sort of getting at, there seemed to be
10 a lot more permits -- seemed to be a lot more steps that
11 need to happen before the work can actually begin.

12 How does that affect your road construction time
13 frame, three or four months or something like that. What
14 would you do, just start and stop building?

15 A. Yeah, if things got pushed back three or four months,
16 clearly we wouldn't get the construction of all the roads
17 and foundations completed in 2008.

18 We would end the program in November and restart it
19 in the following April/May time period and complete the
20 work. I guess in a more severe case, we might actually
21 have to push back the entire project one full calendar
22 year.

23 A lot of this depends on the application process with
24 the other agencies and jurisdictions and when we get the
25 actual permits to do construction work.

1 Q. Thank you. One of the questions I've always had about
2 decommissioning and I've never asked it -- and I
3 appreciate setting aside funds to actually pull one of
4 these projects down and put it to bed -- but I'm curious,
5 the wind is going to continue to blow. Why does it --
6 what, in your mind, makes it financially unfeasible? Why
7 -- what is the death of this project due to?

8 A. Usually it's mechanical constraints of the equipment being
9 installed. At some point it will reach their fatigue life
10 and the blades will no longer be able to operate, the
11 towers themselves, the equipment.

12 At some point the equipment won't function from a
13 mechanical perspective and you'll either have to replace
14 those wind towers, or you'll have to shut down the
15 facility completely.

16 So it is the mechanical equipment itself that's going
17 to limit the effective life of the facility.

18 Q. If, let's say, 25 years from now, 25 or 30 the mechanical
19 life is spent but you feel as though you're able to put
20 something up, a newer model or something in it's place, do
21 you foresee the same kind of environmental impacts being
22 reproduced with the construction of what might essentially
23 be a whole new project?

24 A. Not at all. By then the roads have been built, so it's a
25 matter of some of the areas have been revegetated in

1 actual 34-foot road width would have -- the vegetation
2 would have to be removed.

3 There would be no more, or very little construction,
4 of additional infrastructure necessary to put up the wind
5 turbines.

6 So you could put up new wind turbines of the same
7 size fairly easily at that point.

8 Q. So it sounds like the road construction is probably the
9 biggest impact of this entire project?

10 A. I would say from an environmental perspective, the road
11 construction is the biggest impact, yes.

12 Q. A couple of times you made reference to letting the site
13 revegetate, and I think Mr. Rocque had expressed a concern
14 about using loam and erosion control mix as a preference
15 for an alternative erosion control measure.

16 Have you given those, his preferences, consideration?

17 A. Well, I think we have. An erosion control mix, I believe,
18 was his preferred method of allowing revegetation, and I
19 think we indicated that we would use that as one of our
20 construction tools, if you will, in our toolbox to allow
21 revegetation.

22 That would be -- the decision on what to use would be
23 made on a specific basis by that engineering field
24 consultant that I mentioned in my presentation.

25 MS. KURTZ: I think that's it. Lynn, I think you

1 spoke a little bit about the avian and bird impacts.

2 EXAMINATION OF LYNN GRESOCK

3 BY MS. KURTZ:

4 Q. You reviewed the original Kenetech impact assessment prior
5 to 1999.

6 I just wondered, you said that generally the data
7 that you have collected and that Kenetech had collected
8 was generally consistent.

9 I just wondered, what does that really mean?

10 A. Probably the most significant difference in monitoring
11 technology between Kenetech's day and the current day is
12 that we were able to use our radar data to get some height
13 elevation, and of course at the time when Kenetech did
14 their data collection, that wasn't something that they
15 could do in terms of adjusting the radar.

16 But you'll see in our avian report that we put the
17 volume information that was collected by Kenetech in the
18 tables to compare it to what we found here.

19 I think that we would say that the volumes, in terms
20 of usual of the area, are very similar. In terms of the
21 daytime raptor migration, we found that their reports
22 showed similar usage and similar patterns of behavior.

23 Kenetech had conducted some more broad breeding bird
24 studies than we did for this particular application. It
25 was great to be able to use and rely on that so we could

1 focus on the Bicknell's thrush, which was the specific
2 species of interest at this point. It was all very, very
3 useful information to have.

4 As you know, every study that we do can only provide
5 you a snapshot of the conditions in that particular year
6 and that particular season, and so to have the advantage
7 of having for this site two other seasons worth of
8 information was great.

9 Q. Does it look like the species composition and numbers are
10 the same? Not the same?

11 MS. GRESOCK: Dana, do you remember whether we saw
12 much --

13 MR. VALLEAU: The breeding birds -- my name is Dana
14 Valleau. I live in Liberty, Maine and I work for TRC in
15 Augusta. I oversaw all the field studies related to Kibby.

16 The breeding bird surveys that Kenetech did, they did
17 fewer of them scattered over most of their project area, which
18 was much larger, and we focused ours, of course, on our two
19 ridges and primarily on Bicknell's thrush habitat.

20 But what we saw were similar species composition for
21 breeding birds. They also did morning migrant surveys. We saw
22 similar species composition, and the daytime migrant, the
23 raptor surveys, we documented similar flight paths than they
24 did.

25 EXAMINATION OF DANA VALLEAU

1 BY MS. KURTZ:

2 Q. I guess one of the reasons, I'm wondering how populations
3 vary and if there's a way to project how impacts might
4 change. Maybe that's an impossible --

5 A. Yeah, that's a hard thing to do. There's groups like
6 Partners in Flight that are working to document population
7 shifts and neotropical migrants, for example. That's
8 their primary focus.

9 Our primary focus was to look for any problems with
10 this site.

11 Q. I'm glad to see that there would be post construction work
12 done, but I'm just curious, what kinds of remedies or
13 mitigating strategies would be incorporated if the
14 projections of mortality were not accurate?

15 You can't exactly pick up a turbine and move it. I
16 didn't know if the value of post construction creates more
17 concerns than other projects moving forward, or if there's
18 really -- you can really do anything once the project's in
19 place?

20 MS. CINNAMON: That's a really great question.

21 Christine Cinnamon with TransCanada.

22 With respect to post construction monitoring, it's
23 really important that should something be found that we do a
24 root cause analysis so that we understand is this an isolated
25 event, is this something that we can attribute to a project, or

1 a situation outside of the project.

2 And so each case must be taken on a case-by-case
3 basis, and that's how would we would expect to respond to any
4 event. We would include all of the relevant agencies in that.

5 As far as coming up with a strategy to deal with what
6 that would be at this time, I don't think it's appropriate to
7 come up with that unless we knew what it was that was
8 happening. So that's why we've committed to the post
9 construction monitoring and a plan to deal with that involving
10 all the relevant data.

11 MS. GRESOCK: You're absolutely correct. One of the
12 important values to having the monitoring is to aid the
13 understanding of these types of projects.

14 I mean, certainly there's a dearth of information
15 that allows us to compare, but it's also true that we're able
16 to take advantage of -- there's a lot of interest in this
17 particular issue, for example, national wind coordinating
18 committee just recently put together a compilation, they call
19 it Mitigation Toolbox, which is a term we find very familiar
20 here where they've begun to compile studies that are available
21 that talk about issues like this and address different
22 strategies.

23 So we're expecting that when the time comes to
24 develop the details, we won't be necessarily identifying what
25 would happen in an event but we'll have a whole array of

1 options to think about within the content of what is
2 particularly happening potentially at the site at that time.

3 MS. KURTZ: I have one more question. I'm not sure
4 who to direct this to. A number of comments have been made to
5 the original Kenetech and the proposed project, and I think it
6 was 600-plus turbines on eight different ridgelines.

7 I just wondered, is there any plan -- put the C and B
8 Series out of the picture, so to speak -- but is there any
9 plan, thought, thinking about developing the other four ridges
10 that Kenetech originally had wanted to? Whether you've
11 acquired those lands, I don't know.

12 MR. BENNETT: Terry Bennett, TransCanada. No, there
13 are no plans. We have no wind rights other than the four we
14 talked about here this morning.

15 EXAMINATION OF TERRY BENNETT

16 BY MS. KURTZ:

17 Q. Those other four ridgelines aren't now in conserved lands.
18 They may be available for sale?

19 A. My understanding is Kenetech has rights on all of that
20 land. Through partial releases they may have been given
21 up.

22 So the only wind rights related to Kibby Mountain and
23 Kibby Range and C and D and TransCanada. We have
24 preliminarily ruled out our exclusive right for C and D.

25 THE CHAIR: Speak right up. We're having a hard time

1 hearing.

2 A. Sorry. I was just saying that TransCanada only has rights
3 to Kibby Mountain, Kibby Range, and C and D Range, and
4 we've given now through conservation agreement our rights
5 to C and D. We don't own that land to be cleared, but we
6 have the exclusive permanent right to build there. So we
7 know no wind farms will be developed on C/D or at the top
8 of A.

9 We don't have any wind rights on any other ridges
10 associated with the larger Kenetech project.

11 Q. Could those be acquired though? They're not in the
12 block -- visually --

13 A. To be honest, I have no idea, whether Plum Creek or some
14 other entity, owns it at this time, so I really can't
15 answer that.

16 EXAMINATION OF TOBEY WILLIAMSON

17 BY MS. KURTZ:

18 Q. I think Mr. Williamson, I understand there were two
19 outreach studies -- environmental impact studies and one
20 was more formalized, I think the traffic strips and things
21 like that and then the one that you did.

22 I'm concerned, I think, a little bit about the
23 statistical significance of the information you got.

24 Was there a list of specific questions that every
25 single person was asked?

1 A. To be clear, it's not a statistically sound survey, it was
2 more an anecdotal survey. We got information at the very
3 beginning of the project about how the land was being
4 used.

5 The survey that was undertaken later was more
6 statistically based. It was basically an opportunity to
7 get out into the community and talk to people about how
8 they're using the land.

9 Q. So it may have been helpful from TransCanada's perspective
10 to try to figure out what folks mean -- I don't know if it
11 has much validity for us in terms of public support.

12 That's sort of where I'm going with that. I'm glad
13 you went out and turned your project into -- I don't know
14 if user friendly is the right word -- but I also question
15 whether or not we should gauge that as an endorsement of
16 this project because it's not statistically significant?

17 A. Sure. And there are two parts to the work that I did and
18 that was the very first part was that informational
19 survey.

20 The second part was quite a bit longer, and that was
21 just being in the community, talking to people for the
22 last -- well, if you take off the first portion -- it was
23 probably about a year and a half. I spoke to hundreds of
24 people about the project, both opponents and supporters.
25 I would say there was a broad base of support for this

1 project in the local area.

2 Q. But I think that --

3 MS. GRESOCK: Just to make it clear, there was a
4 consistent list of questions that we asked each one of those
5 people. So while it wasn't necessarily a formal survey and not
6 necessarily statistically used, it was something that was
7 deliberately done so that everybody was being asked the same
8 questions and you were getting responses to the same sets of
9 questions; right.

10 MR. WILLIAMSON: Yes that's correct.

11 BY MS. KURTZ:

12 Q. Do you have that list of questions?

13 A. I don't believe it's been submitted.

14 Q. The other reason -- I just get a little nervous about
15 surveys and questionnaires.

16 If the general public in Maine were asked, should we
17 make our schools more efficient and reduce weight and
18 everyone would go, yeah, but right now there's a
19 tremendous amount of backlash because we're trying to
20 consolidate schools.

21 So it depends on how the questions are asked, and
22 it's very important to receive those questions and make
23 sure that the responders weren't being skewed one way or
24 the other or to get a full accounting of what is being
25 proposed.

1 A. Sure, that's absolutely fair. I can just tell you,
2 throughout the process of speaking with people, I made no
3 attempt to steer anybody in any direction.

4 That was -- I was -- public education is really the
5 way that we look at it, and what TransCanada expected from
6 me was that I would go out and provide information about
7 the project and bring questions back to the team and the
8 information about the questions back to the public, so
9 that was sort of a two-way street that I helped to create.

10 Q. Did you record responses?

11 A. Yes.

12 Q. So we'll get the questions and responses?

13 A. Yes.

14 MS. KURTZ: Terrific. Thank you.

15 MR. WIGHT: Steve Wight.

16 EXAMINATION OF CHRISTINE CINNAMON

17 BY MR. WIGHT:

18 Q. Christine, you talked to us about how you avoided bog
19 lemming habitat, which brought the question to me -- I
20 think you were the one -- since you don't own the land,
21 when you determine that there's a habitat that shouldn't
22 be touched and you go around it with your project, does
23 that tell us that the owner of the land is also taking
24 that into account and avoiding it? Are we going to have
25 to talk to someone else about that?

1 A. We've actually worked very closely with Plum Creek to give
2 them the same information that we've been finding,
3 something that Lynn and Dana can attest to. I know Dana,
4 he passed along information and has been careful to avoid
5 areas that we've delineated as being sensitive.

6 MS. GRESOCK: I wanted to say that there are two
7 important factors, one is that the 26-acre area is within the
8 area that TransCanada has development rights to; the second
9 factor is that it is about 2700 feet, and so theoretically no
10 activity should be occurring in that area without coming to
11 LURC for permission unless it's allowed within a P-MA zone.

12 So if harvesting, for example, were to occur in that
13 area, that's something that ought to be before LURC.

14 And so while TransCanada doesn't own the land, I
15 think there are -- through our communications with Plum Creek
16 and through these other regulatory mechanisms -- some means to
17 ensure that that happens.

18 EXAMINATION OF LYNN GRESOCK

19 BY MR. WIGHT:

20 Q. Absent any issue like that bog lemming habitat, is
21 Plum Creek free to cut the land within the leased areas
22 when they still harvest wood?

23 A. It's still their land, so as long as it's within an area
24 that they're allowed to do so within other regulatory
25 jurisdictions.

1 Q. Right. You don't have any say over that?

2 A. That's correct.

3 Q. I thought that's the way it was. Thank you.

4 MR. WIGHT: Who was it that talked about the
5 transmission line capacity?

6 EXAMINATION OF NICK Di DOMENICO

7 BY MR. WIGHT:

8 Q. We've got a 54-megawatt line that could be raised to 130
9 by how?

10 A. Actually you have summer rating line of 135-mva, which for
11 all intents and purposes are 135 megawatts.

12 Over time, through use or lack of repair, the line is
13 sagged. It's sag limited. There are certain tolerances
14 put into proper utility practices that dictate so much
15 clearance of ground level.

16 Q. So we're talking sag, like physical sagging of the line?

17 A. That's correct, physical sagging. To rerate the line,
18 it's original design of 135 mva, you retention the line,
19 you may have to replace the structure over time.

20 Q. Pull?

21 A. Pull. The pull is a 115-kV line, it's single circuit each
22 frame, that's what it's rated.

23 Q. Is there a plan to do that --

24 A. Yes.

25 Q. -- retention the line?

1 A. Yes.

2 Q. Whose responsibility would that be?

3 A. We would pay for that.

4 Q. How much of that now 135 -- what is it?

5 A. It's 135 in the summer.

6 Q. Megawatts?

7 A. Yes, and approximately 170 --

8 Q. In the winter?

9 A. -- in the winter.

10 Q. How much of that will your project use?

11 A. We would use -- I guess the use would vary depending on
12 the velocity of the wind.

13 Q. Let's say at its maximum?

14 A. A 132, say about 130.

15 Q. So if you and Black Nubble and Boralex were all on-line,
16 we'd have a problem?

17 A. If the three are all on-line, I guess for all intents and
18 purposes the plan would be to have a double -- a single
19 existing line replaced with a double-circuit line on a
20 single set of poles, which would accommodate the capacity
21 of all three of those projects.

22 Q. Whose responsibility would that be?

23 A. In our view it would be at a minimum a collective
24 responsibility of Black Nubble and ourselves.

25 Q. So this is the line now that goes from the Bigelow station

1 to Wyman Dam you're talking about?

2 A. That's correct.

3 Q. That isn't CMP's problem?

4 A. No, it's not. It's their line. The rerating?

5 Q. Not the rerating -- yeah, increasing the capacity of the
6 line so that the potential producers could all use it.

7 A. My understanding is that CMP have an obligation to service
8 the load but not generators, so no, that would be a
9 generator responsibility.

10 Q. So it would be the responsibility of all the generators to
11 get together and fix the line so that they could all use
12 it?

13 A. I think that would be the commercial outcome, yes.

14 Q. Is this a competitive issue, the guy who gets there first
15 gets it?

16 A. No.

17 MR. WIGHT: Thank you.

18 Terry, a question for you.

19 EXAMINATION OF TERRY BENNETT

20 BY MR. WIGHT:

21 Q. We were told that packages were something outside
22 Mahoosuc, but you did bring up the Mahoosuc project, and I
23 think we ought to hear a little bit about it.

24 I know that the primary opponent to the last hearings
25 that were held here is now a proponent and is also very

1 interested the half a million dollars that you've agreed
2 to give to the Mahoosuc project.

3 I just wondered how all that came about.

4 MR. BENNETT: Sure, I don't know. Christine might be
5 a better person to answer this. She was involved with the
6 discussions with Audubon.

7 MR. WIGHT: Great, thanks.

8 MS. CINNAMON: We went through a lot of discussions
9 with all of the various stakeholders, and part of that -- out
10 of that evolved an interest in a conservation package, if you
11 will.

12 And so that -- that was -- that's the reason that we
13 have tabled a consultation to understand the interests and
14 concerns of various groups, and in dealing with Audubon and
15 AMC, as well as NRCM, we came to understand that this was
16 something that they were interested in, and we were able to
17 come to agreement with them on a set of projects, potentially,
18 that we could contribute to as well as a sum of money that we
19 could contribute.

20 EXAMINATION OF CHRISTINE CINNAMON

21 BY MR. WIGHT:

22 Q. What did they give for that?

23 A. What did they -- it wasn't a matter of giving or taking;
24 it was a matter of coming to agreement on what the outcome
25 of our consultation with them was. We weren't expecting

1 anything in return for that.

2 Similar to our community benefits package, it's
3 something that we do as part of a project in consulting
4 with various stakeholders, again, to understand what their
5 concerns are and what we need to do together.

6 Q. So if you didn't give that half a million dollars, all of
7 the testimony would be the same from all of the
8 intervenors?

9 A. I can't speak to what they would say but I would expect
10 that to be the case, yes.

11 MR. WIGHT: Thank you. That's all I have.

12 MS. HILTON: I just have a couple questions, so many
13 good ones have been asked so far. My first one is for Jean.

14 EXAMINATION OF JEAN VISSERING

15 BY MS. HILTON:

16 Q. My question is, at what point with respect to scenic
17 resources is mitigation warranted? Could you give me an
18 example?

19 A. Sure. I have a slightly different view of mitigation as
20 compared to the way some other people use that term, so it
21 may be a little confusing.

22 I think that in some instances you have a project --
23 and I've certainly been involved in some -- where you
24 certainly have an impact that could be regarded as
25 somewhat excessive, for example, you built -- in a housing

1 project, in the middle of an open field or you've got the
2 houses located right in the middle of the view, so then
3 you look and see, is there another way we could construct
4 and sort of redesign the project to protect the resources
5 that are valuable resources on the site.

6 In the case of wind projects, I've certainly been
7 involved in some -- in one I ended up not, for various
8 reasons, working on this project because in this
9 particular case I didn't totally agree with the person who
10 wanted to hire me -- but it was a case in New York where,
11 for example, it was open meadows and it seemed to me there
12 were places in the design of this project where the
13 turbines were really oriented around some of the houses so
14 that they would be completely encircled by wind turbines.

15 And so those were areas where if I were recommending
16 mitigation, I would say, you know, you need to either move
17 these or you need to remove some of them.

18 So that can be mitigation when you have a situation
19 where there are excessive impacts to either a particular
20 person or a particular resource, and so you redesign the
21 project.

22 In some cases mitigation may not be possible if it's
23 just a bad site for a particular use.

24 In this particular case, I felt that the project
25 really is -- I mean, first of all, I think with wind site

1 is everything. There are design issues that come up and I
2 think they are important, but getting the right site is
3 critical.

4 Just looking at the way that the project roads have
5 been designed to sort of essentially be oriented on the
6 sides of ridges so that they are not visible from public
7 viewing areas, I didn't see, given the nature of the
8 views, I saw no places where I felt there would be an
9 excessive number of turbines or location of turbines that
10 were visible from particular viewpoints.

11 In this case I felt as though the project -- because
12 I think there's been a lot of kind of finessing of this
13 site to really reduce the impacts -- that I didn't feel
14 mitigation was needed on this particular project.

15 Q. This is a little bit of a -- I'm trying to get a little
16 bit of information from you on this kind of thing in
17 particular, but if you had a situation where it was a high
18 value view from a public road, I mean, would it be
19 possible, would mitigation be perhaps purchasing a scenic
20 easement so that trees are not cut?

21 You speak a lot of instances where there are views
22 but the reason you can't see the turbines is because
23 there's vegetation there.

24 If that vegetation was removed through timber
25 harvesting then there's a view. I'm throwing that out and

1 I'm not even sure whether it's applicable here.

2 A. Yeah, I'm not quite sure how to answer that. Well, let's
3 say if you had a particular scenic, high value scenic
4 view, a place where people may have stopped to park their
5 cars and they were looking at this view and the turbines
6 were going to be right there.

7 Now, of course, this is not exactly answering your
8 question, but one of issues, you might say, well, you just
9 plant trees in the foreground. By planting trees in the
10 foreground you ruin the view; right?

11 So that's a problem. And I would say that would be a
12 situation where I would have some great concerns because
13 the mitigation counters the resource.

14 So -- but in the case of cutting, the instance of
15 let's say, well, let's say you have -- you have no view
16 and let's say there might be a blowdown and the view would
17 be exposed, that would concern me less.

18 I think that happens, trees grow back. I would look
19 at -- look at the views we have now and not be too
20 concerned with, well, what happens if we have a blowdown.

21 MS. HILTON: We talk about post construction
22 monitoring, and I don't know whether this is a question
23 for Lynn, I guess.

24 EXAMINATION OF LYNN GRESOCK

25 BY MS. HILTON:

1 Q. Do we have any data or information on the behavior of bats
2 or birds with respect to once the towers are in place, are
3 they attracted by the lights?

4 You've certainly -- have you done any monitoring at
5 your wind farms that you already have in operation that
6 have been in operation for a couple of years?

7 A. Chris may be able to address what she's seen at their
8 existing facilities, but I guess one of the challenges
9 that we have in general is that wind power in the
10 United States is still a little bit in its infancy, and
11 the difficulties with understanding studies and avoidance
12 behavior, there are just so many types of species and that
13 all act in slightly different ways.

14 There are challenges associated with developing post
15 construction programs that are meaningful and appropriate.
16 That's one of the challenges we have working with LURC and
17 with IF & W to figure out what exactly will help to
18 understand truly what might be going on at this site.

19 The mitigation toolbox document that I mentioned from
20 the National Wind Coordinating Committee that I think was
21 published in draft in May 2007 is a great compilation. It
22 still doesn't lead to a lot of knowns and conclusions.
23 There's a lot -- greater level of comfort with
24 understanding bird issues than there are with bat issues.

25 The National Academy of Science just came out with a

1 paper this year, as well, a study that they did, and that
2 underscored that same impression that birds -- there's a
3 level of comfort that the total population effect overall
4 isn't terribly, terribly significant. Bats are still a
5 little of a mystery, and there are a lot of studies that
6 are going on in that regard.

7 We are pleased that we don't have a lot of bat
8 activity at our site because that is so much more of an
9 unknown, but our studies are clearly going to have to
10 identify ways to try to monitor and assess what's going on
11 for both birds and bats.

12 I don't know, Chris, whether your projects have had
13 any experience with that?

14 MS. CINNAMON: The one project that we have currently
15 in operation is the Anse-a-Valleau, which you heard from Corey
16 earlier, and that one just started in operation in November of
17 last year.

18 We're just in the process of implementing the post
19 construction mortality studies. We haven't had any significant
20 results to date, so as far as avoidance type of behavior, that
21 sort of thing, we don't have any data related to that.

22 As there are more and more projects, they are
23 starting to do these types of studies and it is something we're
24 following very closely so that we can understand it, especially
25 as we go forward.

1 MS. KURTZ: Thank you.

2 MR. SCHAEFER: You'll have to forgive me because I
3 wasn't here for the morning. There are a couple of questions
4 that may have been addressed.

5 EXAMINATION OF COREY GOULET

6 BY MR. SCHAEFER:

7 Q. One of them is the assembly of the blades. Is it going to
8 be three blades assembled and the hub lifted, or is it
9 going to be one at a time?

10 A. Yeah, in this particular case the V90 machines that we're
11 using, they're one blade lift at a time.

12 Q. The Gold Brook Road, are you going to set up some kind of
13 communications with the logging industry so that commerce
14 isn't interrupted? It's going to be a huge project
15 getting all that equipment up there.

16 A. Yeah, we've set out similar types of processes at our
17 Anse-a-Valleau project. We have almost an identical
18 situation with one logging road into the area that's used
19 extensively.

20 We set up flagmen at either end of it, and we use
21 radios for communication. The turnoffs that we talked
22 about using on Gold Brook Road is another means of
23 managing that.

24 So we'll work with Plum Creek to develop -- and their
25 contractors -- to develop a process by which we can all

1 use the access road effectively.

2 Q. The last one is kind of a hypothetical and it involves
3 decommissioning. I'm kind of interested in what might be
4 recommissioning.

5 The engineering in turbines has been logarithmic for
6 10 years, and right now I guess we're maxed out at
7 3 megawatts.

8 Is there something on the board for a 6-megawatt
9 turbine, and is your equipment and infrastructure designed
10 to handle a bigger turbine if it comes along?

11 A. Well, first of all, the largest turbine that I'm aware of
12 is about a 5-megawatt machine that's available and used
13 offshore primarily. These types of machines are too large
14 to be used onshore.

15 The roads and infrastructure doesn't make it possible
16 to move these into position effectively and efficiently.

17 That's not saying the technology won't change. Who
18 knows, a six-blade design -- but for the time being we
19 wouldn't do that.

20 Of course, one of the limitations of our installation
21 is the foundation itself. It will be designed to handle a
22 3-megawatt machine, and regardless of what technology
23 comes forward, that foundation would have to be replaced
24 if indeed it was going to be used for a 5-megawatt --

25 Q. The weight is the issue?

1 A. The weight and the forces, quite frankly, on the tower
2 itself.

3 MR. SCHAEFER: Thank you.

4 THE CHAIR: I'm not sure whether this is for Terry or
5 Corey.

6 You both mentioned your extensive development work in
7 Quebec on the Gaspé peninsula, and I was just curious. In all
8 those wind farms that you indicated, were those wind farm
9 locations a result of just an ad hoc decision by a whole bunch
10 of companies that this was a good place to build a wind farm,
11 or did the Province of Quebec -- whoever the representative
12 is -- decide that this is where we ought to focus our efforts
13 and you responded somehow to them on that place?

14 MR. BENNETT: Yeah, it's the latter, the Quebec
15 government together with Hydro Quebec filled an RFP, a request
16 for proposal, for wind projects for a total of 1000 megawatts
17 back in 2004, and we submitted 740 megawatts worth of
18 project -- one 740 megawatts worth of projects.

19 EXAMINATION OF TERRY BENNETT

20 BY MR. HARVEY:

21 Q. So the province said, we want 1000 megawatts --

22 A. They wanted 1000 megawatts total of wind projects. They
23 again, incidentally, one month ago had another round for
24 2000 megawatts worth of wind projects. TransCanada
25 submitted projects for 975 megawatts worth of projects.

1 Q. Are you aware of any similar process in Maine for that to
2 happen?

3 A. No, Maine's a little bit of a different market.
4 California has something similar to the Quebec process
5 where it's not State run but the utilities have sort of
6 continuous RFPs.

7 Each year they'll ask for either a certain amount of
8 energy or certain amount of megawatts from renewable
9 sources, and the developers -- private developers bid into
10 that process and the lowest price wins.

11 Q. I guess would it -- would it be your view, then, that for
12 wind power to your project hence others to deliver really
13 effectively what they're supposed to deliver, that we need
14 to have a certain critical mass of them in place.

15 I mean, one or two isn't going to deliver -- I'm not
16 trying to put words in your mouth, I'm just asking, one or
17 two might not deliver all these benefits that we expect
18 from them.

19 Do you have a thought on that?

20 A. I think each project delivers the benefit of the energy
21 that is purchased, every megawatt hour that Kibby
22 produces, for example, will displace a megawatt hour from
23 a fossil fuel plant somewhere in New England.

24 I think -- an aggregate number of wind projects will
25 do what one project won't do is that it increases the

1 features are found as low as 1800 feet.

2 Some of those features -- I probably should have
3 elaborated a little bit more in my testimony because I
4 obviously wasn't clear about this -- but, for example, in
5 this site, yes, there are some outcrops, in fact there are
6 ten mapped outcrops on the A and B Series in total.

7 They're not visible, for example, from the Gold Brook
8 Road in the same way that I think of an outcrop of rock
9 that sort of defines a craggy mountain that has both a
10 scenic and landscape values that in total are designed to
11 sort of keep us off of those special areas.

12 These mountains are very different and at 2700 feet,
13 as I mentioned, in fact the ground on average does not
14 have a severe grade. Certainly there are some steep
15 slopes, but there are cliffs, there aren't outcrops.

16 You go on some mountains in Maine -- and I'm sure you
17 have -- in which when you're walking along the ridge,
18 you're on one continuous outcrop all the way down the
19 ridge, whether it's 1800 feet or 3000 feet.

20 Those kinds of features are not found on this
21 mountain except in scattered position. Therefore -- I had
22 an argument at one point -- just to fill this out -- I had
23 a pretty serious argument with the Bureau of Public Lands
24 when I did the work in the Mahoosucs because I suggested
25 to them that they use 2400 feet as their protection zone,

1 and since they wanted to be able to cut wood between 2400
2 and 2700, they didn't want me to put that in a report.

3 They required me to go back and do a second round of
4 analysis. When I did the second round of analysis in a
5 small little -- with Tom Morrison and Mr. Doak -- they
6 came to exactly the same conclusion that I did, that in
7 fact on that particular mountain those features were
8 visible in an aerial photo from thousands of feet at 2400
9 feet and not 2700 feet.

10 I think case-by-case you have to evaluate and that's
11 why I said what I said.

12 THE CHAIR: Thank you. Just on the question of
13 Bicknell's thrush, we learned a lot about that in the last
14 couple of years.

15 EXAMINATION OF LYNN GRESOCK

16 BY MR. HARVEY:

17 Q. Did I hear you -- I'm not sure that this is particularly
18 important -- did you say that we didn't know the
19 Bicknell's thrush existed until 1998?

20 A. It was not distinguished as a separate species from the
21 gray-cheeked thrush, although we have some records from
22 the Kenetech reports, for example, about thrush activity
23 in the area, we don't really know all the facts and gaps
24 because there have been some in the area. We don't know
25 which it was.

1 THE CHAIR: It's interesting. We learn lots of
2 things while we're studying wind power, don't we.

3 I think with that we'll conclude our questions and
4 excuse the panel.

5 MS. BROWNE: Is there an opportunity for any brief
6 redirect?

7 THE CHAIR: Not really. I didn't allow any time for
8 that and nobody asked.

9 If you get -- if you have redirect, then I assume
10 that Ms. Prodan will want redirect.

11 MS. BROWNE: But only on the subject of my redirect.

12 THE CHAIR: I've got too many lawyers.

13 MS. BROWNE: If you give me a moment, I may just
14 pass.

15 THE CHAIR: I'll tell you what I'm going to do.
16 We're going to take a break right now so that the court
17 reporters can take a break, and when we come back we can pursue
18 this subject if you want to.

19 (There was a break in the hearing at 2:53 p.m. and
20 the hearing resumed at 3:06 p.m.)

21 THE CHAIR: We had requests before we took a break
22 for questions by the applicant, and I'm going to allow a brief
23 amount of time for that. Obviously Ms. Prodan will have the
24 right to ask questions about the questions.

25 You may proceed.

1 MS. BROWNE: Thank you, Chairman Harvey. I will be
2 brief.

3 EXAMINATION OF TERRY BENNETT

4 BY MS. BROWNE:

5 Q. Terry, I wanted to ask you a question. Corey Goulet
6 talked about the timing needed to obtain permits to
7 acquire turbines, and from a business development
8 perspective -- which is your area of expertise -- can you
9 comment on whether there are any restrictions on or
10 constraints on turbine availability and timing issues
11 associated with that?

12 A. Sure. As I said, Corey was speaking from a project
13 scheduling point of view.

14 From a business development point of view and a
15 project economic point of view, we have been in
16 discussions with Vestas on the availability of the V90
17 turbine, and based on our last discussions, they advised
18 us that their 2009 production slots are filling up very,
19 very quickly.

20 They advised us that if we had a hope of getting a
21 set of turbines for 2009 that we would be well advised to
22 commit to that sooner the better and certainly by year-end
23 to have a realistic hope of obtaining those slots.

24 From our point of view, that's still a critical issue
25 is that we have the opportunity to confirm our order with

1 Vestas prior to year-end to lock in the units and the
2 pricing that's been quoted to us.

3 MS. BROWNE: Thank you.

4 EXAMINATION OF JEAN VISSERING

5 BY MS. BROWNE:

6 Q. Jean, you were asked about a statute that is referred to
7 as the Natural Resources Protection Act, and I just
8 thought there was a little bit of confusion around that,
9 and maybe a little bit on my part; but I would like to ask
10 you to look at 38 MRSA Section 480-C, which is the section
11 of NERPA that identifies the prohibitions.

12 If you could just read that section.

13 A. No. 1, Prohibition, A person may not perform or cause to
14 be performed any activity listed in Subsection 2 without
15 first obtaining a permit from department. If the activity
16 is located in, on, over any protected natural resources --
17 resource -- or is located adjacent to any of the
18 following, and that lists various situations.

19 Q. That just requires you to obtain a permit before you can
20 impact that resource; correct?

21 A. That sounds right to me.

22 Q. And then there are some standards for obtaining that
23 permit, under 480-D, and the first is Existing Uses, and
24 could you just read that?

25 A. The activity will not unreasonably interfere with existing

1 scenic, aesthetic, recreational, or navigational uses.

2 Q. And as part of the analysis that you've done here, to look
3 at the existing scenic and recreational impacts of the
4 project?

5 A. Yes.

6 MS. BROWNE: Thank you. That's it, Chairman Harvey.
7 Thank you.

8 MS. PRODAN: No questions.

9 THE CHAIR: Thank you. That brings us to testimony
10 by local interests in support, and I believe that's the
11 gentleman from the Town of Eustis; is that correct?

12 Why don't you come forward.

13 MR. WYMAN: First of all, Chairman Harvey, I
14 appreciate the time you're giving me. I need to make a
15 statement before I read my --

16 THE CHAIR: Can you tell us your name?

17 MR. WYMAN: Sorry. My name is Earl Wyman, Jr. I am
18 a selectman for the Town of Eustis but I'm also the chairman of
19 the local interest support group of Kibby wind power. It's
20 kind of hard to change hats and keep one hat on and off. I'll
21 explain to you in a minute.

22 I would like to make a statement before I go into --
23 I made a summary of my prefiled testimony. I don't think it's
24 necessary for me to read my pretrial [sic] testimony.

25 THE CHAIR: This isn't a trial.

1 MR. WYMAN: I understand that, but I think you ought
2 to know something.

3 I was having a very good time here today listening to
4 everybody, I'm very comfortable with what was going on.

5 When I come back from lunch one of the Friends of the
6 Boundary Mountains members out stopped me and he made a comment
7 that really upset me and I think you ought to know about it,
8 because I think it's particular to some of their aspects, and
9 knowing me and knowing him all my life, he asked to look at my
10 hands and I thought he had a joke to make.

11 When I showed him my hands, he said, oh, I thought
12 they would be greener than they are because of all the money
13 that TransCanada is flying around. So that insinuated to me
14 that I'm here on a bribe or a person of TransCanada. I am not.
15 They have never offered, they have never insinuated any type of
16 funding for me. I take my own personal vacation time.

17 I do my own transportation, I buy my own meals, I pay
18 my own way. They've never given me one cent, so I just wanted
19 to make that clear to you and the rest of the people that may
20 think different.

21 I'm here on my own, I'm here to support my community,
22 which is very important to me, and the people of the interested
23 support group. Thank you.

24 In basic summary of my prefilled testimony, I have
25 lived in Eustis for 54 years. I've been involved in the

1 community in many ways and have a strong passion for our area
2 and the people who live there, so it was not very hard for me
3 to agree to cheer the local interest groups supporting the
4 Kibby wind project.

5 We need good clean development in this area in order
6 to keep the cost of living at a reasonable rate for everyone
7 who owns homes, camps, and property here. But I'll tell you
8 this from experience: If the selectmen and the majority of the
9 residents felt this project was not a good environmentally
10 sound project, you would need a week of hearings to get through
11 everyone who would be here to oppose it, but that's not the
12 case.

13 TransCanada has been very open and honest in their
14 meetings with the public and have answered every question and
15 concern that has been asked.

16 It seems to me they've done everything that needs to
17 be done to comply with what is required to gain a permit for
18 this development of the wind project, and I'm not too sure, but
19 at times I think they've gone above what they have to do for
20 this.

21 It's time. It's been over 20 years ago I was leading
22 some hearings in Augusta for a week when we wanted to put the
23 biomass plant in the town of Eustis. All the environmentalists
24 at that time did not want to see another smokestack. They did
25 not want no coal, wood, peat moss, don't dam up any more of our

1 rivers. Wind power. Good clean renewable resources.

2 Wind power, solar power. That was the message then.

3 It's here, it's time.

4 To rezone a particular project, you know as well as I
5 do, throughout the state of Maine there's rezoning of projects
6 everywhere. It seems like every time you turn around you read
7 in the paper that they've rezoned a certain project for a
8 development or some other entity, so rezoning is not uncommon
9 in the state of Maine anyways.

10 Twenty years ago when laws and rules and regulations
11 were made for certain areas, times have changed. Sometimes
12 things have to change along, sometimes zoning rules and law and
13 regulations have to change to go along with it.

14 That brings me to a couple other points of interest.

15 The benefit package offered the Town of Eustis has
16 been said by some of the opponents to be nothing more than a
17 bribe. Let me tell you this: If the people of our community
18 felt this project was devastating, the tactics would have been
19 refused and more than that amount would have been raised to
20 hire our own law firm to sit over here and oppose this project.

21 If there was no package involved in this, the people
22 that have signed up on this group would also still be in favor
23 of this project.

24 We feel that the benefit package is credible from
25 TransCanada, who has done this in other areas -- it's not

1 prevalent just in our area -- in projects that they have. It
2 proves to us they want to be a good community supporter, and
3 they want to have a good relationship with the community for
4 years to come.

5 When you look at the whole picture, the contribution
6 of upwards of a million dollars in tax money to unorganized
7 territory, is an incredible asset to those towns and
8 plantations.

9 Another point of interest that a local person has
10 stated in a couple of articles written in their regular -- that
11 they -- and this might answer some other questions -- power
12 producing entities will be shut down or scaled back to allow --
13 for the wind project to come on-line. That is absolutely
14 false.

15 Federal regulations state -- and I obtained this
16 yesterday from the president of Central Maine Power Company and
17 the vice president -- state that when a power plant is built or
18 another power producing entity is built and the lines are not
19 capable of handling the power that they need to transfer this
20 power, they will be upgraded.

21 In talking with the systems' dispatch people, the
22 national grid itself has more than enough capacity to handle
23 all power producing entities at this time, even the future ones
24 proposed by the Kibby wind power project, the Black Nubble
25 project, and a couple others that are being proposed at this

1 time.

2 I was really humored from the statement of the first
3 person when he was up and he stated that we should build
4 another biomass plant. That's another smokestack, an extra 80
5 to 100 trucks a day over our roads in our small community,
6 which would be added to the 150 to 200 trucks a day that we
7 already have. I can't see any impact there, can you?

8 TransCanada seems to be a Class A company and wants
9 to do the right thing and be a part of the community. They
10 also expressed interest in working with the local clubs. This
11 is so that they could still use the trails, the snowmobilers.
12 Of course, they are owned by the paper company, but we was
13 concerned that maybe when TransCanada built their transmission
14 line down through, that they would not allow any more usage of
15 that for whatever reason.

16 They assured us that that was the case. As long as
17 the paper company is in approval of it, then they will approve
18 the use of their transmission lines and their areas for use of
19 the four-wheelers and snowmobilers as they can.

20 Most of our clubs -- our snowmobile clubs, our
21 four-wheeler clubs -- they kind of do their own contracts with
22 the paper companies, they do all the paperwork and leg work
23 with them, so they have their own separate entities anyway, but
24 we just wanted to make sure that if they came on-line and came
25 into the area, that that wouldn't stop, and they assured that

1 it would not. I have no reason to believe that it would.

2 There's a lot -- there's a lot of public lands in the
3 state of Maine, and every time that the State acquires land and
4 takes land out of the taxpayers it costs the taxpayers a lot of
5 money. We have thousands and hundreds of thousands of acres
6 that are in public lands now. I understand the concern about
7 the Kibby wind power project being devastating to the area. I
8 don't believe it is. I believe the remoteness of this project
9 is an excellent location to at least try a project of this type
10 to make sure it's going to fit in and going to work in the
11 area.

12 The group of local interests supporting the Kibby
13 wind project is not just a bunch of local people. They are
14 home, camp, and landowners, they are business owners. They are
15 club members, firefighters, rescue personnel, teachers,
16 sportsmen, woodsmen, equipment operators, truck drivers, mill
17 workers, moms, dads, grandparents, and young adults as well.
18 They also work in our stores, they work for the State, and they
19 work in public utilities.

20 Most of these people wear other hats as well. They
21 belong to committees, they belong to PTC, they belong to
22 planning boards, rec programs, lighting programs, and other
23 committees within our community.

24 They all have a great deal of love and passion for
25 the community, and that's why they've signed a petition stating

1 that they are in support of this project, they think it is a
2 good project for our area.

3 It's also a good time to bring some new business into
4 the area and hopefully afford some of our young people a job
5 that they can stay in the area and work.

6 I'm a fourth to fifth generation of our community.
7 That is a rare thing now. A lot of people are moving out, a
8 lot of the young kids grow up, there is no good employment. A
9 lot of money, these kids want to make, the type of money they
10 want to make and the things they want to do, it's just not
11 available.

12 Businesses are not knocking on our doors to come into
13 our area and help relieve our tax burden. With the costs of
14 the schools, the sanitation department, fire protection, and
15 everything else, the cost escalates every year. We have a lot
16 of elderly residents who live in our community, and they would
17 like to keep their own homes for a few more years.

18 That's about what I have to say and I thank you for
19 your time. If you have any questions, I'll answer them.

20 THE CHAIR: Thank you, Earl. Does anybody on the
21 Commission have a question?

22 MR. WIGHT: Thank you for coming forward.

23 THE CHAIR: Don't run away. I assume that there may
24 be some other people who may wish to cross-examine you.

25 MR. WYMAN: That's fine.

1 MS. BROWNE: We don't.

2 THE CHAIR: Pam, it's up to you.

3 EXAMINATION OF EARL WYMAN

4 BY MS. PRODAN:

5 Q. Good afternoon, Mr. Wyman.

6 A. Good afternoon.

7 Q. The question about the community benefits package that I
8 have is in regard to the thousand dollars per megawatt
9 hour per year, was that a negotiated amount or was that
10 just what --

11 A. No, that was an offered amount. They came to us and said
12 this is basically what we do in other areas, and this was
13 the package they offered.

14 Q. I saw in the memorandum of agreement in the description
15 about the community benefits package a reference to how
16 that would be calculated. I'll read it and see if that is
17 your understanding of it.

18 It says the annual payment shall be calculated at the
19 rate of \$1000 per megawatt of capacity installed and
20 operating of this project during each calendar year of the
21 life of the project, prorated for the fraction of any year
22 during which the project is not continually operating,
23 less any amounts paid by TransCanada, Maine Wind
24 Development, to residents in proximity of the project to
25 address impacts to the project.

1 Is that your understanding of how that reads?

2 A. Yes, ma'am, because there are other entities and there are
3 few residents in Jim Pond Township where they come down
4 through that they may be negotiating some type of deal
5 with them as well. We knew that in the beginning of the
6 stages, yes.

7 Q. So the calculation for the Town of Eustis would have
8 subtracted from it any payment TransCanada would make to
9 others; is that correct?

10 A. That's correct.

11 Q. Did anyone from TransCanada say what those impacts might
12 be?

13 A. Not really. I don't remember specifically. I knew they
14 said they could be anywhere from 5- to 10- to \$12,000.
15 I'm not sure.

16 There were a few figures thrown around, but I think
17 at the time they weren't really exactly sure what they
18 would be but we were pretty fine with anything.

19 Q. Do you think there might be annual compensation for any
20 landowners on Eustis Ridge?

21 A. I couldn't answer that. I'm not sure what they have. I
22 know that we have a public acreage of land that runs down
23 through Eustis Ridge that we have given the TransCanada
24 people. It's actually a public lot that's up behind it,
25 and we've given them an easement for their transmission

1 line. If this is permitted, they have a right to bring a
2 line down across there.

3 MS. PRODAN: Okay, thank you.

4 MR. WYMAN: You're welcome.

5 THE CHAIR: Anybody else? I think Earl you're free
6 to go. Thank you very much.

7 MR. WYMAN: Thank you.

8 THE CHAIR: The next is the American Lung
9 Association. Are they here?

10 MR. MILLER: Commissioners, members of the
11 Commission, my name is Ed Miller, I'm the executive director of
12 the American Lung Association here in Maine, and I'm pleased to
13 be here today.

14 I will not, in the interest of your time, read you my
15 testimony that's been submitted. I'll just summarize a few
16 points I'd like to make in this testimony.

17 We're here as a public health organization that's got
18 a hundred-year history in this state. The first 50 years that
19 we were in existence in the state, we were fighting a major
20 lung health threat, which was tuberculosis. The second 50
21 years was spent fighting the next lung health threat, which is
22 smoking. We're still fighting that now.

23 But the future for the Lung Association to be
24 relevant to the needs of Maine people, we're going to be
25 involved for the fight for healthy air. Unfortunately, this is

1 a fight that has no boundaries, neither state boundaries or
2 boundaries within your home.

3 I just want to point out today you may have heard on
4 the news that we experienced eight exceedances of the ozone
5 standard this summer so far. I guess we beg to differ a bit
6 with that. That was compared with two days last year. We beg
7 to differ a bit with that, because that's based on a standard
8 that even the EPA's own scientific advisers do not feel is
9 protective enough of public health.

10 If we were to apply the standard that the EPA's
11 advisers felt should be in place right now of 60 parts per
12 billion, we would have experienced 38 days -- not eight -- of
13 unhealthy air with virtually the entire state affected at one
14 time or another.

15 This was not a good summer if you happened to have
16 lung disease, but it is also not a good summer if you happen to
17 breathe, because none of us are immune from the effects of
18 ozone, so this is the foundation for our concern here today.

19 I understand very clearly that our perspective on
20 this as a public health organization is one of many that you
21 need to weigh in the very difficult decisions that you have to
22 make in these kinds of projects, but it is an important one.

23 We just feel that doing nothing is no longer an
24 option, that wind has got to be a part of the solution, that
25 we're not talking about one wind farm or two wind farms.

1 I mentioned to you folks when we were at Stetson that
2 we have this image and hope, quite frankly, that we would be
3 able to address wind power as a community source of energy on a
4 much smaller scale and be able to make that viable throughout
5 the state. Two things worked against it, the economics work
6 against you and the fact that wind isn't in every place works
7 against you. The wind, as you well know, is primarily in this
8 region of the state and offshore. Both of those are obviously
9 very precious resources that we have in this state and ones
10 that you have a special responsibility to address.

11 We feel that wind is not the only solution to this
12 problem, and clearly we need to do more in terms of efficiency
13 and conservation. Just the simple task that we can do of
14 replacing incandescent light bulbs can have dramatic impacts so
15 that we're not here talking about the need for more and more
16 power plants. But clearly wind power needs to have a part of
17 this solution.

18 I will end my testimony there and be willing to take
19 any questions from you or others. Thank you.

20 THE CHAIR: Thank you. Anybody have any questions?
21 You're getting off pretty good here.

22 Juliet?

23 MS. BROWNE: No questions.

24 THE CHAIR: Pam.

25 MS. PRODAN: Good afternoon, Mr. Miller.

1 MR. MILLER: Good afternoon.

2 EXAMINATION OF ED MILLER

3 BY MS. PRODAN:

4 Q. You were kind enough to send me the final report for the
5 feasibility study for community wind projects in Maine,
6 which was actually attached to your testimony; correct?

7 A. Yes.

8 Q. In that report there's a statement there about the
9 production tax credit.

10 Do you agree with the statement on Page 64 of this
11 feasibility study that the federal production tax credit
12 is the "mother lode" subsidy for privately owned wind
13 farms nationally?

14 A. I might not have expressed that, it was not my writing,
15 but I agree that it's a critical part of making wind power
16 feasible in this country, yes.

17 Q. And on Page 33 there's another -- do you agree with the
18 statement made in this report that your organization
19 helped commission, if all of the projects came on-line in
20 the next three to four years, however, they would
21 collectively overwhelm the existing renewable portfolio
22 requirements of the northeast states?

23 A. I would suspect given what I feel the integrity of people
24 that put that report together, that would be true. I
25 think it's also pretty unfeasible that that would be an

1 occurrence.

2 Q. Thank you. Were you here earlier today when I was
3 discussing the report and TransCanada's application called
4 Global Warming in New England?

5 A. Yes, I was.

6 Q. In that report there is a discussion -- quite a bit of
7 discussion -- about alternatives; isn't that right?

8 A. I must have not read that report.

9 Q. Let me ask you this: You just said that wind is not the
10 only solution; is that right?

11 A. That's correct.

12 Q. Would you agree that it isn't the need of New England to
13 build more renewable energy generation but rather the need
14 to reduce emissions that is most important?

15 A. That's an interesting question. What you're saying is
16 your -- that our goal is obviously to reduce emissions.
17 That's what the Lung Association is concerned with,
18 absolutely. That's why I mentioned that conservation and
19 efficiency are also part of that solution.

20 Q. Are you familiar with the concept of an emissions
21 registry?

22 A. I'm not.

23 Q. So you -- you didn't actually read that report which
24 references the idea of global warming efficiency -- excuse
25 me, global warming emissions registry; right?

1 A. Yes, I said that before.

2 Q. Are you aware if TransCanada currently reports their
3 company-wide emissions publicly?

4 A. I'm not aware of that.

5 Q. Would you support corporations being required to report
6 their company-wide emissions?

7 A. Define emissions that you're talking about. Are you
8 talking about CO₂? What's the scope of it, all emissions?

9 Q. Global warming emissions.

10 A. Sure.

11 MS. PRODAN: Thank you.

12 THE CHAIR: Could I ask a question for clarification
13 here. What's this -- the report you referred to, what was that
14 report again, please? Is it in the testimony?

15 MS. PRODAN: The report that I questioned TransCanada
16 about earlier and Mr. Miller just now is in Volume 2 of
17 TransCanada's application, it's 2-C and it's called Global
18 Warming and New England.

19 MR. MILLER: There was a feasibility study.

20 THE CHAIR: You answered that question. The
21 feasibility study had to do with the community-based projects
22 that you referred to in your testimony.

23 MR. MILLER: Right, and that's been submitted in the
24 past as well.

25 THE CHAIR: Anybody else? We've got some time left

1 here, how come?

2 I think what we'll do is we will conclude this
3 afternoon and we'll pick up tomorrow morning with the Friends
4 of the Boundary Mountains direct testimony.

5 With that we'll see you here tonight at 6 o'clock for
6 the public testimony.

7 So we're going to have a little more of a break than
8 we normally get. We'll take advantage of it. We'll see you at
9 6.

10 * * * * *

11 (The hearing was suspended on October 2, 2007 at
12 3:33 p.m. and the hearing resumed at 6:08 p.m.)

13 * * * * *

14 THE CHAIR: Good evening ladies and gentlemen. I'd
15 like to get started here, and first off, my name is Bart Harvey
16 and I'm the chairman of the Land Use Regulation Commission and
17 presiding officer for the hearing.

18 Other members of the Commission with us this evening
19 are Gwen Hilton, Steve Schaefer, Steve Wight, and Rebecca
20 Kurtz.

21 In addition we have LURC staff, Catherine Carroll,
22 our director; Scott Rollins; Melissa Macaluso; and Diana
23 McKenzie; and our court reporter is Lisa Fitzgerald. And I
24 remind you all that when you speak this evening to come up and
25 use the microphone so we can record everything you have to say.

1 This evening's hearing is being held pursuant to
2 provisions of Title 12 MRSA, Section 685-A and will be
3 conducted in accordance with Chapter 5 of the Commission's
4 rules for the conduct of public hearings.

5 This evening's hearing is being held to receive
6 public testimony on the matter of Zoning Petition ZP 709
7 submitted by TransCanada, Maine Wind Development Incorporated,
8 to rezone 2908 acres in Kibby and Skinner Townships, Franklin
9 County from a mountain area protection subdistrict to a planned
10 development subdistrict to develop a wind power facility.

11 Within the subdistrict the wind power facility would
12 include 44 turbines on the south side of Kibby Mountain and
13 Kibby Range, access roads, and utility lines.

14 Outside of the planned development subdistrict in
15 Kibby Township, the wind facility would include roads,
16 utilities lines, a substation, and a maintenance and operations
17 building.

18 In addition, there would be -- a 115-kV transmission
19 line would be located in Kibby, Jim Pond, and Wyman Township,
20 as well as the organized towns of Eustis and Carrabassett
21 Valley and would connect to the grid at Bigelow substation.

22 The purpose of this hearing is to allow the public to
23 present direct testimony and evidence as to whether the
24 development proposal meets the criteria for approval as
25 specified in 12 MRSA, Section 685-A(8-a) of the Commission's

1 statutes and Commission's land use districts and standards.

2 If you want to testify and haven't already signed up
3 on the sheets in the back of the room, I would encourage you to
4 sign up, because I'm going to call people in the order in which
5 they signed up.

6 All witnesses must be sworn and will be required to
7 give -- before they give testimony to state their name,
8 residence, and business or professional affiliation, the nature
9 of their interest in the hearing, and whether or not they
10 represent another firm or individual or other legal entity for
11 purposes of the hearing.

12 As I said, we will transcribe the proceedings, so you
13 need to speak clearly. All questions and testimony must be
14 relevant to the Commission's criteria for approval of this
15 project. Irrelevant and unduly repetitious material or
16 questions will be excluded.

17 The record of this hearing will remain open for ten
18 days for written comments until Monday October 15th and or an
19 additional seven days, until October 22nd, for rebuttal
20 testimony or determined by myself if we need to make changes.

21 Written public comments will be entered -- written
22 public will be entered into the record until October 22nd. No
23 additional evidence or testimony will be allowed into the
24 record after that date.

25 Persons attending the hearing who wish to be notified

1 of the final action taken by the Commission as a result of this
2 hearing may leave their name and address with our staff.

3 We're going to have -- I don't think you're planning
4 a statement, are you, Catherine? Okay.

5 A representative from TransCanada is going to present
6 a brief overview of the project so everybody will know what's
7 being proposed. After they're done, I'm going to ask all of
8 those who plan to testify, I'll swear you in together, and then
9 we'll start taking your comments.

10 You're going to do it, Christine? Okay. Why don't
11 you go ahead and do your presentation.

12 MS. CINNAMON: Welcome to the public session of the
13 LURC hearing for the Kibby wind power project. My name is
14 Christine Cinnamon, and I'm the environmental manager for
15 TransCanada. I'm going to give you a brief overview of the
16 project.

17 What we have here is a summary of the project
18 elements. The Kibby wind power project is proposed as 44
19 turbines on Kibby Mountain and Kibby Range. I'll show you
20 exactly where that is in a moment.

21 There will be a total of 132 megawatts of installed
22 capacity should the project be built. The turbines proposed
23 are Vestas V90 3-megawatt unit with a rotor diameter of 295
24 feet, and the tower height to the center of it will be
25 approximately 263 feet. That would give an approximate total

1 height from the top to the bottom from 410 for each tower.

2 There will be approximately 19 miles of new roads
3 created for the project. There will be approximately 17, a
4 little bit more than that, of existing roads that we can
5 utilize. There will be an electrical interconnection system
6 between the turbines.

7 Other elements that it will require, step-up
8 transformer, a service building. During construction we'll
9 need concrete batch plants, as well as laydown and various
10 other work areas.

11 Finally, the project involves a 27.6-mile
12 transmission line.

13 What this shows you is the general project area in
14 relation to the state as well as -- let me just grab a laser
15 pointer -- that's the project site. We've got Route 27 right
16 here, Route 201 here.

17 This gives you a little bit closer look at the
18 project area. Again, we're looking at 44 proposed turbines, 17
19 on the lower portion, southern portion, of Kibby Mountain and
20 27 on the wishbone-shaped Kibby Range. What you can see also
21 on this map is the proposed transmission line going down to
22 Bigelow.

23 So what makes this a good site for a wind power
24 project? The winds on these ridgelines are ideal for wind
25 power generation, they are strong and steady. The site is

1 currently under active forest management with good access
2 available. The project involving these ridgelines, plus a
3 number of others, which you can see here, was previously
4 proposed and permitted to the site. That was developed by
5 Kenetech.

6 Given our wind data, the previous developer's wind
7 and environmental site information and the previous LURC
8 decision, we decided to pursue this opportunity as a
9 potentially acceptable site for a wind power project.

10 Many aspects of the site and the surrounding area
11 were studied in order to characterize the existing site uses,
12 the natural resources, and other considerations. I won't go
13 through all of these but this is a sampling of the types of
14 assessments that we did.

15 Subject near and dear to my heart, the environment.
16 We did an awful lot of ecological field programs. TransCanada,
17 alongside our environmental experts, have undertaken many
18 studies over the past two-plus years that we've been involved.
19 We worked to understand the natural resources in the project
20 area and the potential impacts related to the project features
21 we're proposing. These studies have allowed the environmental
22 and engineering teams to coordinate closely in minimizing the
23 project footprint, and therefore the potential for impacts.

24 Avian and bat considerations are just one of the many
25 things that we looked at, and it is one of the topics that

1 frequently come up in relation to wind power projects.

2 Historic studies done by the previous developer
3 indicated that avian risks was low and our studies have further
4 confirmed this to be the case. As a full suite of recent
5 ecological analyses, we thoroughly considered bird and bat
6 movement as well as risks. The project design, and
7 specifically turbine placement, and the construction methods
8 will ensure that risks to birds, bats, and other sensitive
9 natural resources is low.

10 This project represents an investment of
11 approximately 250 to 300 million, which will pay over
12 \$1 million approximately in taxes to the State. We'll pay
13 approximately \$25,000 in taxes to Eustis, again these are
14 estimates.

15 We'll contribute to the towns of Eustis/Stratton
16 \$1000 per megawatt of installed capacity, for a total of
17 \$132,000 per year whether the project generates electricity or
18 not, should the project be built.

19 The project will need 250 people at the peak of
20 construction, as well as 10 to 12 permanent positions once the
21 project goes into operation. Our mandate is to hire locally
22 whenever possible. We've already been meeting with local
23 contractors, and we're confident that we'll be able to find a
24 lot of the jobs that we need filled right here locally.

25 Wind power does not generate emissions like fossil

1 fuel generation does. Potentially emissions displaced by the
2 Kibby wind power project would be approximately 200,000 tons of
3 CO₂ per year, 90 tons of nitrous oxide per year, 350 tons of
4 sulfur dioxide per year.

5 The project timeline. The application for the
6 project was submitted in January 2007, and the subsequent
7 transmission line was submitted shortly thereafter, and that
8 resulted in this October hearing.

9 The current plans are to begin construction in 2008
10 should we get a LURC decision and all other necessary permits
11 that we need for that.

12 We would start clearing in early winter of 2008. We
13 would stop work during mud season -- or the wet season -- and
14 start road construction in the summer. Again, that's only if
15 we get the permits necessary and in time. We anticipate going
16 into operation later on in 2009.

17 There are a number of boards around the room. I
18 encourage everybody to have a look at that information.

19 That's it. Thank you very much.

20 THE CHAIR: Thank you, Christine. I think the next
21 step will be to swear in all of you who plan to testify, but
22 before that, just to -- as I say, a couple of simple ground
23 rules. One, you've got to come up to the microphone to speak,
24 and I'll try to give you a warning of when you're next in line
25 to come up.

1 And I would caution you that to make the process go
2 smoothly and not waste a lot of time, if you like what somebody
3 said, we appreciate it if you don't clap or other
4 demonstrations. They just distract from the hearing. They
5 don't add to the weight of what that person had to say and up
6 from this side they can be irritating, so I wouldn't advise
7 doing it. Obviously you can do as you wish, but I'm asking you
8 not to do it and would appreciate your cooperation in that.

9 With that, I would ask that those of you who plan to
10 testify stand up and we'll swear you all in.

11 (Witnesses were sworn en masse.)

12 All right, I notice on my sign-up sheet I've got
13 three here and the others will be brought down, so if you've
14 signed up and it hasn't come down, don't worry.

15 I notice -- as a matter of courtesy, if we see State
16 representatives, we do allow them -- invite them to come up
17 first if they wish. I notice that Senator Gooley is on the
18 list. Is Senator Gooley -- there he is. Why don't you come
19 down.

20 SENATOR GOOLEY: Thank you very much for allowing me
21 to go first, although I am going to stay around and listen to
22 the other testimony.

23 I appreciate the opportunity to appear before you
24 here this evening to give testimony on the proposed Kibby
25 project. I do support the Kibby project.

1 Currently we do generate enough electricity, electric
2 energy, to meet our needs in the state of Maine but we are
3 heavily dependent on non renewables, primarily natural gas.

4 I currently serve on the Governor's Wind Power Task
5 Force, and I'm hearing both sides of this issue. One person
6 told me, if not Kibby, then where.

7 Nuclear power is out of Maine, but a number of such
8 power plants are in the planning stages in the United States.
9 Maine Yankee used to produce 870 megawatts for half of Maine's
10 needs, then after that closed down, natural gas replaced Maine
11 Yankee.

12 Well, we don't like nuclear, we don't like dams and
13 rivers, and the price of natural gas use is not going to go
14 down.

15 Now, the governor has keyed in on wind power and the
16 task force is focusing in on 1000 megawatts of wind power in
17 Maine. The task force is an ongoing discussion at this time.
18 I do support wind power at some level in Maine.

19 We have to move in a direction of increased renewable
20 energy use, including wind, hydro, biomass, geothermal, and
21 solar. We seem to be putting our emphasis on wind right now,
22 but hydro, biomass, and the others need to be in the forefront
23 also.

24 I have toured the proposed Kibby site and walked the
25 ridges with key personnel from public and private sectors. I

1 do recognize the ongoing discussion of transmission lines and
2 the grid where the power will go and also the environmental
3 concerns and tax credits.

4 Now, my understanding is that none of the power would
5 go to Canada. I do believe that we as a society are not really
6 interested in being conservative users of energy. If we can
7 afford it, we buy it, including air conditioners. You can buy
8 an air conditioner at Wal-Mart for \$89, 5000 BTUs.

9 The big cities to our south are going to be forced --
10 this is my opinion -- the big cities to our south are going to
11 be forced to depend on generation from new and advanced nuclear
12 facilities. That's the way I see it.

13 Maine's advantage must include a mix of energy
14 programs and a much lesser dependence on natural gas and coal,
15 and I think that Kibby would be a step in the right direction.

16 I do appreciate your time. I recognize that you have
17 a tough job. I've been up here other times and you do have a
18 tough job and I certainly appreciate your input. Thank you.

19 THE CHAIR: Thank you, Senator Gooley. Good to see
20 you again.

21 I believe Representative Carter is here as well.
22 We'll let him go.

23 REPRESENTATIVE CARTER: I appreciate going quickly.
24 I got off the tractor to come here. I'm going back to get on a
25 tractor tomorrow morning to help my son harvest corn.

1 I also echo Senator Gooley's statement. I don't envy
2 your task before you. I know you have a very difficult and a
3 very hard task. In whatever decision you make, someone is
4 going to be unhappy with you. We face somewhat the same thing,
5 I think, in the State legislature.

6 I am him Timothy Carter. I am the representative
7 from District 91. I live in Bethel, Maine, but my district does
8 include Kibby and doesn't include Carrabassett but everything
9 from Stratton down to Kingfield through the woods here, but now
10 over in Bethel and Stoneham.

11 I, too, have toured the site and I've flown over the
12 site of Kibby. One of the first things I want to emphasize,
13 this is an industrial working forest. It is not a wilderness
14 area, it is interlaced with high quality roads that are used to
15 move timber from the harvest to the marketplace.

16 The other thing I want to emphasize, which I think
17 helps this site, is it is isolated from other settlements.
18 These wind mills are not going to interfere with anybody's
19 home, anybody's business. The only thing that somebody might
20 say, well, we're going to be able to see them here or there,
21 but, then, beauty is in the eye of the beholder, and there's
22 lots of things that we've created. Some people probably don't
23 like the looks of this mountain behind us, but the skiers love
24 the looks of it. I look at Sunday River from where I live.
25 There's only one way we're not going to have some impact on the

1 environment, that's people cease to exist.

2 We do have a brain and we're supposed to pick the
3 best choices so the environment will continue to let us live
4 here.

5 This land is privately owned. As I said, the wood is
6 harvested and this is the way the landowners make money from
7 the land. Approval of the wind project will allow them to make
8 more money from their land, and future wind projects will help
9 landowners make money from their land, and that's why they own
10 the land, and hopefully that will be a way to help keep it as a
11 forest and not into development.

12 One of the things that's nice about this and a lot of
13 other land that LURC controls, it is open to the public even
14 though it's privately owned. I understand that people moose
15 hunt around Kibby, they hunt partridge around there, and
16 hopefully that can continue. I think the better we treat the
17 landowners, the more likely that is going to continue.

18 I think that wind power farms can be a benefit to
19 Maine. We need a desirable source of reasonably priced energy.
20 Some people talk about the taxes and how's it's deterring
21 business. I think that the cost of energy in this state is a
22 bigger deterrent to business than is our taxes. That's my own
23 personal opinion.

24 I think most of the conferences I've been on, energy
25 cost is a very important aspect when any company looks at

1 moving to an area. They need a supply of energy that needs to
2 be reasonably priced, and it needs to be somewhat that it's not
3 going to go out of the public reach in the future, because
4 that's when they try to make their money.

5 Hydro is the least expensive but it's very difficult
6 to get it approved. Some people say most of the best hydro
7 projects in Maine have already been developed. The ones that
8 are really efficient and the ones that are really cost
9 effective are the ones like at Wyman and the things that have
10 been in place a long time. If we had more of those, we would
11 have less expensive energy in this state.

12 Wind power is clean and it is renewable. Its
13 efficiency, I believe, is going to improve with time. At
14 present there are 44 generators going up there, and they're
15 going to generate as much power as the great more number were
16 approved there back in '94 because they're bigger, they're more
17 efficient, and the technology will improve.

18 Once people start building these, then there will be
19 investment because everybody wants to have the best one on the
20 market to produce the most power for the least investment. So
21 they will become more efficient. That's the way our economy
22 works.

23 Modern society is based on energy. I used to say
24 this country runs on cheap fuel and cheap food, and cheap food
25 comes from cheap energy. Well, energy in this country is

1 getting more expensive all the time. But, my son milks 100
2 cows. He does that with one person. If he didn't use
3 electricity, it would take 10 to do the same task.

4 There's a guy down in Waterford that wrote a book,
5 Running on Empty, named Howe, and he said if we -- and I talked
6 to him once and went down to see his solar tractor -- but he
7 said, if it wasn't for the use of energy -- coal, oil, and
8 things and the amount we've burned in the last 100 years, 150
9 years -- we'd still be living like they did definitely around
10 the revolutionary war time and even earlier, and I don't want
11 to live like that.

12 Kibby is a high quality site. If you look at it on
13 the wind maps, it has good constant wind flows of enough to
14 generate good power, good reliable source. That why it was
15 tried to be developed before. That's why it's trying to be
16 developed now.

17 There are other quality sites in unorganized
18 territories, too, and I understand at the hearing before in
19 Farmington somebody said, if we approve this, we'll approve
20 anything. I guess like what Senator Gooley said is, if we
21 don't approve this, what are we going to approve?

22 In not approving this site that has been well
23 researched and well documented and to me it looks like an ideal
24 site to put windmill projects, we're going to discourage other
25 people from even trying to build wind farms in other places

1 that are high quality places.

2 Again, I'll come back. The more energy we have --
3 and supposedly it's not the law of supply and demand -- if we
4 have a surplus of it, the price is going to come down. So
5 hopefully industry, the legislature, administration can work
6 together, if we can, generate a lot of electricity to bring the
7 power prices down to consumers.

8 My son spends about \$1500 a month now. So I hope you
9 will approve this. I think it is a good site and like Senator
10 Gooley, I want to get home.

11 Thank you very much for your time.

12 THE CHAIR: Thank you, Representative Carter. I
13 didn't necessary plan it this way. The one other rule that we
14 usually have at these hearings -- now that the legislature has
15 spoken -- is that we limit everybody, try to keep their talks
16 about 5 minutes.

17 So that would help us get us out of here at a
18 reasonable time tonight.

19 I guess the next person -- I'm going to start with
20 Page 1 of my list, and I see Duluth Wing is here. And
21 following Duluth is Adrienne Rollo.

22 MR. WING: Good evening. My name is still Duluth
23 Wing, I'm still retired, and still live in Eustis, and I'm with
24 the Friends of the Boundary Mountains.

25 I was a forest ranger for the State of Maine for 38

1 years. I spent my first year in Bigelow tower, and then six
2 years as a ranger, and the last 31 years I was the chief
3 warden, later called a district ranger, working in Eustis under
4 the Department of Conservation.

5 My claim to fame is that I have spent a lot of time
6 overseeing these western mountains to detect and fight forest
7 fires and have become very familiar with every ridgeline,
8 watershed, road, and landowner to effectively do my job.

9 This was only accomplished by using every form of
10 conveyance possible, including aircraft, studying maps, and
11 observing terrain from various fire towers. Ultimately, I was
12 able to visualize every section of this western mountains, so
13 when an emergency arose, I could get a group to the area
14 without delay.

15 I can still close my eyes and get myself a picture of
16 the area I desire. I guess you could call this my visual
17 impact.

18 I have seen many undesirable forest fires,
19 windthrows, and clearcuts, and thanks to God, Mother Nature has
20 so far reforested and healed these scars. I wish, however, to
21 never see 400-foot towers, concrete pads, 34-foot wide roads
22 bulldozed into the steep mountain slopes and the 26 miles of
23 cleared high tension lines. Mother Nature won't be able to
24 heal these scars.

25 There should be a law against this sort of commercial

1 development and there is a law against it. The wind power
2 proponents have indicated that their project won't be seen from
3 many places. I wholeheartedly disagree. As an example, the
4 Town of Eustis boasts three unique and desirable areas --
5 namely, the Cathedral Pines, Eustis Ridge, and Flagstaff Lake.

6 Recreationalists cannot get a lot of views north from
7 the Cathedral Pines because of the trees, but when they launch
8 a kayak or canoe into the lake, which literally thousands of
9 them do, the most prominent mountains to the north is Kibby
10 Range. Please see the attached picture I took, it's on Page 3.

11 Here I'm showing the view from the lake with the
12 Cathedral Pines on your left and the Kibby Mountain Range in
13 the back.

14 I have tried to show how high the towers would be by
15 assuming that the foot of the mountains is 1400 foot of
16 elevation, the top of the mountains are 31-, it leaves 1600
17 feet that you'll see of the mountain. The wind towers are 400
18 feet tall, but that would be one-quarter of 16-, so the wind
19 towers in effect would be one-quarter of the height of the
20 mountain above the mountains. Don't forget, they'll be 44 of
21 them.

22 As for Eustis Ridge, see the next two attached
23 pictures: One from the corner of Porter Nadeau Road, and one
24 from the Risvera property. They're both of Kibby Range. And
25 don't forget the 13 miles of red pulsating lights you may see

1 from these locations every night if the zoning has changed to
2 allow the project.

3 Recently, some folks who live here have said to me,
4 I'm with you on this wind power thing. I ask, then why don't
5 you stand up and be counted? They counter, well the selectmen
6 and even the County commissioners are voting in favor of the
7 project, and I don't want to rock the boat. My answer to this
8 has been, yes, I understand three of our select persons have
9 voted to accept money and yet when the project -- and if and
10 when the project generates the proposed amount of current, and
11 the County commissioners did about the same thing in
12 anticipation of more taxes.

13 But these are a total of just six people who would
14 like to see the project succeed, and I know of many folks who
15 live in Eustis and Franklin County who are against the project.
16 Some of these people join us here tonight in opposing the
17 project.

18 This morning when I got out of my car here in the
19 parking lot, I saw an elderly friend of mine, namely John
20 Tangway. John said to me, look at that mountain, as he pointed
21 towards Sugarloaf. I think wind towers wouldn't make that
22 mountain look any worse, do you? How could they spoil it any
23 further? He then said, now turn around and look at Bigelow
24 there across the valley. Which one do you like the best?

25 Lastly, I like to give credit where credit is due and

1 say that I'd like to give thanks to the TransCanada folks for
2 spending time with me and understanding my position in this
3 matter. They've been very good to me.

4 Thank you for the opportunity to present my
5 testimony.

6 THE CHAIR: Thank you, Duluth. Adrienne -- am I
7 saying that right? Following her is Bill Houston. Bill, you
8 can get yourself ready.

9 MS. ROLLO: My name is Adrienne Rollo, and I am
10 highly opposed to a wind farm on Kibby Mountain. I've been a
11 resident of New Vineyard since 2000 and a camp owner in
12 Phillips since 1987. I've been visiting the Rangeley Lakes
13 region of Maine since I was a child. It's that lifelong love
14 of the mountains that has brought me here tonight.

15 I grew up in Massachusetts and what was once
16 considered a small town. During the last 30 years that small
17 town exploded with shopping malls and residential subdivisions
18 and endless traffic congestion. That scenario is
19 representative of most small towns that have fallen to the
20 pressure of heavy development, and I dare say progress.

21 There was once miles of farmland on the outskirts of
22 Boston, but I challenge anyone to find a farm now. Farmland
23 has become urban sprawl and suburbia until it blends in with
24 the next city's urban sprawl.

25 I left southern New England in 2000 for the peace and

1 quiet of mountain life. So I feel that I am qualified to
2 comment on life in southern New England where this proposed
3 wind power will supposedly benefit the masses, and I think I'm
4 qualified to comment on the endless waste in energy of everyday
5 life there.

6 When I talk about excess waste, I mean huge
7 subdivisions with homes that are at least 3000 square feet or
8 more, every home has a pool, a sauna, a hot tub. You get the
9 picture. Heaven forbid anyone should be expected to conserve
10 energy by turning off their hot tub. Appearances are
11 everything in suburbia.

12 When I talk about waste, I'm talking about working
13 for 30 years, I started out as a clerk, I became a bookkeeper,
14 then a staff accountant, and finally comptroller before I
15 retired; and I watched company executives travel by limousine
16 just to go meet a client for lunch. The client arrived by
17 limo, too. When was the last time anybody in this room has
18 gone to lunch by a limo?

19 You know, I would talk to the powers that be about
20 discussing the environmental impacts of these energy wasting
21 activities, and it's just met with humor and amusement. The
22 arrogance is unbelievable. Appearances are everything in the
23 corporate world. That's the way it is there, and it's like
24 that every day all day.

25 I'm talking about when I worked in downtown

1 Providence, want to deliver a package across the street? Can't
2 go hand deliver that package. What will anyone think if they
3 see an employee hand delivering a package? Get a courier
4 service to deliver it. Just unbelievable waste all the time.

5 By sharp contrast what I've learned here in Franklin
6 County is that people live their lives very simply, very
7 conservatively. Excess and waste are not even a part of the
8 equation here.

9 So do we really want to blow up Kibby Mountain so
10 that wind power can continue to feed the insatiable appetites
11 of those that I know will look upon this new energy source as
12 an endless reason to continue on the path to more excess.

13 Perhaps one day future generations will look back
14 upon history and say, what a greedy society it was back then.

15 Of all the places wind farms can be built, why would
16 any developer or power company choose the choicest land,
17 destroy the most stunning beauty of these mountains, and leave
18 the landscape scarred for eternity.

19 There are so few quiet places left in New England,
20 please don't sacrifice what little is left. I support wind
21 power but not in an environmentally sensitive region. I do
22 support offshore wind farms where the wind is constant, I
23 support wind farms on marginal land. It is simply not prudent
24 to ruin the most environmentally sensitive area of Maine to do
25 it.

1 And I would like to quote Maine's distinguished
2 senator, George J. Mitchell, who once wrote -- and I quote --
3 "We have an obligation to leave for future generations the very
4 basics of human life on earth: Clean air, pure water, and
5 unpoisoned land."

6 I'd like to thank LURC for protecting our mountains.
7 Thank you.

8 THE CHAIR: Thank you, Adrienne. Bill Houston, is he
9 here? And then Lloyd Griscom follows Bill.

10 MR. HOUSTON: Good evening, my name is Bill Houston,
11 I live in Kingfield. I'm a working registered Maine guide. I
12 work and was raised in Maine my whole life, I teach an outdoor
13 recreational leadership course in Skowhegan, and I've been an
14 environmentalist my whole life. I actually spoke at my high
15 school graduation with an essay called Wilderness Men and
16 Salvation. I want to speak to you tonight on your criteria of
17 the project must fit harmoniously in the environment.

18 This morning, once again, I was on talk radio in
19 Bangor, as some of you could relate to, my words were used and
20 my voice, no credit, and taken out of context. I said, global
21 warming is real and dangerous, and they said, and the Farmer's
22 Almanac predicts a cold winter. Ha-ha.

23 So I want you to think fitting harmoniously into the
24 environment more than locally, I want you to think globally,
25 because I believe that an energy project is not an ostentatious

1 yuppy's castle on the top of a hill, but a project that will
2 benefit all, and it has implications far beyond Maine and that
3 the solutions to our energy projects -- to our energy needs,
4 excuse me, are going to take many small solutions.

5 I want to read a letter, a couple quotes from a
6 letter that was in the Bangor Daily News this Friday from Julia
7 Bonds, co-director of Coal River Mountain Watch in Rock Creek,
8 West Virginia. She says, there is an energy war going on here.
9 We're being bombed with 3.5 million tons of explosives every
10 day.

11 Up to 700 of our mountaintops have been blasted from
12 400,000 acres of our mountains. Some children slept fully
13 clothed and ready to run during rain events, homes are damaged
14 and covered in coal and silica dust. Our miners die suffering
15 from black lung, from crushed bodies so America can have
16 energy.

17 The wind dilemma is a class issue. We are poisoned
18 for other conveniences. If your energy comes from coal, which
19 of course some of Maine's does, then it is covered in our blood
20 and it should be dripping from your light switches. War is
21 waged for our energy, yet some people don't want to look at a
22 wind tower.

23 My words, what do you think they mean when they say
24 our interests in the Middle East that need protecting. Her
25 words, when you flip on that switch, remember one who suffers.

1 Take responsibility and fight for renewable energy. Your
2 children's lives depend on it. You can visit her website at
3 ilovemountains.org.

4 Clearly this project, the Kibby Mountain project,
5 will not be the only solution but it will indeed make a
6 significant contribution. If the power goes out of state, so
7 be it. Wouldn't it be great if we had enough renewable clean
8 energy to export to the entire world.

9 I personally think to look at a wind tower is a
10 beautiful thing. I can look at it and say, there it is. It's
11 generating clean renewable energy day after day after day.

12 So I want you to think globally and act locally. I
13 want to change my quote for George Hale so he gets the compete
14 quote. Global warming is real and dangerous, and I say this to
15 everyone in the room, and what have you done to be part of the
16 solution.

17 Thank you.

18 THE CHAIR: Thank you, Bill. Lloyd. And following
19 Lloyd is Sam Lovejoy.

20 MR. GRISCOM: I'm Lloyd Griscom, a resident of
21 Phillips and Madrid, Franklin County.

22 I feel that Maine's heritage of outdoor activities
23 and mountains offers an economic resource that belongs to us
24 all and is badly needed.

25 In my opinion, our heritage should not be bartered

1 off to private interests that benefit only the few with the
2 costs borne by the many. We could have a sustainable
3 nature-based economy in Maine.

4 Let's put the multi-use pieces together as was done
5 in New Zealand, which has a thriving economy. We should not
6 harm these pieces irreparably before that can happen.

7 I have an off-the-grid camp with solar and wind
8 power, and I understand what it means to try to live
9 ecologically. My wind power is in scale to the place and
10 causes no harm to others.

11 I try not to waste energy and even compost to live in
12 balance.

13 The Maine brand belongs to us all and reflects the
14 best of our common ground. Please protect it until this can be
15 realized. If you choose to let this non US company project
16 proceed, please require an extensive environmental impact study
17 of what 13 miles of 400-foot windmills will do to our boundary
18 mountains and surrounding area.

19 Please deny TransCanada's request to desecrate our
20 Kibby Range for their narrow economic benefit when Maine needs
21 to preserve our brand for the economic good of us all. Thank
22 you.

23 THE CHAIR: Thank you, Lloyd. Sam, are you here
24 anywhere? Then Gail Merrill.

25 MR. LOVEJOY: Good evening, I appreciate your letting

1 me speak tonight. I'm actually from Franklin County,
2 Massachusetts. I'm a County commissioner there, and I'm vice
3 chair of the regional planning agency, so I got at least a
4 little bit of a sense of the daunting task that you folks face
5 right now.

6 I want to make a couple comments and then make a
7 suggestion for the panel. The first thing is, every time I
8 hear testimony about visual impacts, they're constantly talking
9 about can I see what from where. They seem to leave out the
10 notion that you're either in the natural environment or there's
11 something artificial in the natural environment, in this case,
12 the wind tower.

13 So when the human mind looks at a panorama, it looks
14 at something -- in the back of its mind and in the front of its
15 mind -- sees as natural. It wiggles, it's smooth, and it goes
16 up and down, and it has rolls in it. It's only when it's
17 interrupted by something that's vertical, something that's
18 hard, something that's a clear line, it's a cell tower, it's a
19 windmill, it's something that interrupts the eye that you
20 actually get to focus on.

21 So I think if there's anything that's daunting for
22 you folks to be able to decide is, you're going from a natural
23 environmental panorama to something that's going to be
24 dramatically changed, and it's going to be 44 of these dramatic
25 changes.

1 If you wanted to look at it in an analogy, you're
2 talking about 44, 41-story buildings, skinny, but buildings, on
3 the top of Kibby Mountain.

4 So when you think of the panorama that's being
5 changed, you're dramatically changing something.

6 Secondly, I don't know whether the LURC panel can
7 issue conditions, but every time I hear the reference to global
8 warming and people want to support the wind, clean wind, you're
9 faced with this idea that you're saving 200,000 tons of carbon
10 dioxide, which won't be emitted.

11 Unless you submit a condition to TransCanada that
12 says you are not going to use 132 megawatts of carbon-based
13 fuels, you've done nothing. You've simply supported the change
14 in the panorama, you've allowed the zoning change in the
15 mountains of Maine, but you've done absolutely nothing to deal
16 with the carbon issues that are used as the argument to support
17 this wind project.

18 The question whether you can issue a condition I
19 think is an important one.

20 When do you say no? You say yes to this one based on
21 what criteria, where's the no? Because you're facing -- if you
22 want 1000 megawatts of wind power, you're facing eight Kibbys
23 right now if that's the State's commitment. Eight Kibbies in
24 the next two, three, four, five years. That's eight mountains
25 or two mountaintops being looked at here, you're talking about

1 16 mountaintops.

2 One thing that I heard, which I did not hear in most
3 of the testimony, are negative impacts. Everything's very
4 positive. Other than the visual impacts that have been stated,
5 it's going to destroy a certain amount of things, I didn't hear
6 anything about negative impacts, the unknowns.

7 How many tourists are not going to come to the
8 Rangeley/Kingfield/Stratton area if they know that a
9 mountaintop or two mountaintops now have 44 wind turbines.
10 Question, speculation with a clear question.

11 What are the property value impacts that are going to
12 occur for those properties that do see the windmills? How do
13 people respond and what are the various responses when you put
14 in the windmills? There are going to be negative impacts.
15 There are going to be people who will not come, my wife being
16 one of them unfortunately.

17 Finally, I would just like to make a suggestion.
18 This issue is so complicated and it seems to me that LURC and
19 the citizens of Maine are being faced with this helter skelter
20 application process where everybody's got opinions running
21 around. I think really, the only way to solve this problem is
22 for the panel to request that TransCanada withdraw their
23 application without prejudice and that LURC then suggest to the
24 governor and to the legislature and to the citizens that
25 everybody -- everybody -- discuss the use of wind power in

1 Maine and come up with criteria that there is no longer an
2 argument about.

3 Either you're going to use the mountains of northern
4 Maine to supply power to the urban areas of southern Maine or
5 you're going to use the ocean, or you're going to discuss the
6 tradeoffs.

7 Right now you're being driven by an application
8 process that pure and simple you can't control, and the only
9 way that I see that you're ever going to solve this problem is
10 if you step back and actually ask the questions, who should own
11 these power plants? Where should they be located? Near their
12 end point, the use point? Where are the needs? How do you
13 decide which mountain is which? Why not the ocean? Who owns
14 and controls the property to these things?

15 I think these are all questions that the state of
16 Maine and the citizens of Maine have got to ask themselves or
17 basically you're just going to be whiplashed between I've got a
18 mountaintop, you've got a mountaintop, which mountaintop wins,
19 Jim's got three mountaintops now. We've decided to give the
20 Kibby permit, which now sets a precedent, how do we say no to
21 the next mountaintop?

22 I don't know the answer but I think the only way to
23 come up with one is to allow a process to get engaged in that
24 allows more thinking and not an application-driven process.

25 So I really appreciate and thank you very much for

1 your time.

2 THE CHAIR: Thank you, Sam. I wish I could answer
3 all those questions but they're beyond me, too.

4 We're talking to Gail. And after Gail is Wendy
5 Glenn.

6 MS. MERRILL: My name is Gail Merrill, I'm a
7 landowner, a business owner, and a worker in this area for 28
8 years.

9 We are here again in our fight to save the
10 magnificent mountains of western Maine and a way of life.
11 These mountains were given protected status for a reason and
12 should remain protected.

13 We have gone over the pros and cons of wind power.
14 That's not what this is about. It's not about wind power. It
15 is about rezoning a state treasure. It doesn't matter whether
16 the group requesting the rezoning is out of state or out of the
17 country. The scenario is still the same.

18 It isn't about alternative energy sources, it is
19 about huge corporate tax credits and money. Please do not let
20 political pressures from big corporations convince you to set a
21 dangerous precedent of rezoning protected lands. Please
22 preserve what has always set Maine apart. Please protect what
23 is so important to us all. Save our mountains. Please say no
24 to zoning.

25 As an aside, when are we going to start thinking

1 conservation over consumption?

2 THE CHAIR: Thank you, Gail. Wendy. And following
3 Wendy is Lloyd Cuttler.

4 MS. GLENN: Hi, good evening. My name is Wendy
5 Glenn, and I've lived in this area for over 20 years. I'm a
6 real estate agent and so I'm familiar with the economic impacts
7 or the potential economic impacts of a wind farm
8 industrialization of the mountaintops in the area.

9 I have spent over 14 years in the Chain of Ponds
10 area, and I do own property in that area and hold it very dear.

11 I'm also an avid outdoor recreationalists and I've
12 spent a lot of time exploring Maine and in particular the area
13 in question.

14 I'm totally in favor of alternative sources of power,
15 alternatives to fossil fuel. We are all individuals, we can
16 all make a difference -- as Gail just said -- conservation,
17 conservation, conservation.

18 We do not need to destroy our mountaintops or
19 industrialize them to reduce air pollution, and again, there is
20 no hard evidence that wind power will reduce the amount of
21 fossil fuel emissions.

22 Alternatives being solar power. We do have tax
23 subsidies here. I'd like to see those tax subsidies in a form
24 that make it realistic for people to actually utilize those
25 subsidies and put solar power in being a great enough

1 percentage of the overall bill putting in solar to make it
2 feasible.

3 One of the ironies of this whole project is that we
4 are off grid in the Chain of Ponds area, the Kibby area, and
5 we're giving all these tax subsidies to Canada -- or
6 TransCanada -- and we don't have tax subsidies that would allow
7 me, personally, to put in solar power. Mind you, I do not want
8 to be on the grid either.

9 Again, conservation and increase in efficiency.

10 As far as TransCanada goes, we are really close to
11 the Canadian border, and there have been discussions about
12 numerous locations for these projects. I think it's been
13 proposed before, and I would like to propose that they do move
14 their project into Canada and use their own mountaintops and
15 not our mountaintops.

16 Being a camp owner in a LURC jurisdiction, I'm
17 familiar with how strict the Land Use Regulation Commission can
18 be. In working with people year after year after year on real
19 estate sales allowed them to avoid LURC jurisdiction because of
20 the application processes and the strict adherence to the rules
21 that protect our environment.

22 In your land use districts and standards there are
23 several sections, one is Page 114, soil, geology, and
24 protection of subdistrict: Purpose of this subdistrict is to
25 protect areas that have precipitous slopes or unstable

1 characteristics from uses or development that can cause
2 accelerated erosion, water sedimentation, mass movement, or
3 structural damage.

4 We saw natural mass movement right here over at
5 Crocker a number of years ago and the disturbance of these
6 mountaintops could easily, in my opinion, create such
7 disturbances.

8 We've talked about the mountain protection
9 subdistrict, and they're protected and regulated, certain land
10 use activities in mountain areas in order to preserve the
11 natural equilibrium of vegetation, geology, slope, soil, and
12 climate, to protect water quality and preserve mountain areas
13 for their scenic values and recreational opportunities.

14 We're counting on you to enforce these rules that are
15 written by you.

16 A couple of weeks ago at the Black Nubble hearing we
17 saw the Penobscot Indian Nation come up and speak in favor of
18 wind power. As Sam said, when do we say no?

19 If we rezone Black Nubble and we rezone Kibby, I've
20 heard from numerous sources that the Indians are just waiting
21 for this battle to be fought and there are intentions of
22 putting a wind farm on Snow Mountain, which, if we start
23 developing all these mountains, will dramatically change the
24 character of the western mountains of Maine which to all of us
25 are dear.

1 In one of the reports I read, it said that there are
2 not any State or National Parks within 15 miles of the wind
3 project. That is true, I believe, however they mention in
4 another section, somewhere down in little print, that there are
5 three public reserve lands, the closest one being Chain of
6 Ponds, which encompasses land north of Natanis Point Campground
7 and west and east of the lakes and certain spots and south to
8 the northern edge of Lower Pond, which is a mere mile and a
9 half, two miles from this wind project from the turbines, the
10 southern edge of Lower Pond being closer and -- I'm afraid it
11 would be in full view of turbines.

12 I don't believe -- I'm speaking to the person who did
13 the visual impact studies. She had not been on the pond to be
14 able to view the site from Lower Pond, only from the land, and
15 I don't believe that's an accurate assessment nor can an
16 accurate assessment be made of the visual impact nor the
17 auditory impact of the turbines on Lower Pond from there.

18 As far as Chain of Ponds being a public preserve
19 land, it's a wilderness -- your wilderness lake assessment that
20 you have says it's a management Class 2 pond and undeveloped
21 water body with exceptional value, according to your
22 guidelines. A 1-A lake of statewide significance with two or
23 more outstanding values, which would be fisheries, wildlife,
24 scenic and physical properties that are all outstanding. You
25 find shore land and cultural significance on this property and

1 culture significance on our trail, which runs through this
2 area.

3 Other areas, just to give you an idea that are rated
4 similar according to your standards, are the Moosehead area,
5 the Rangeley Lakes area, Kennebago, Central Lake, Chesuncook,
6 Caribou, Richardson, Attean, and Aziscohos, many of which I'm
7 sure people are familiar with for their great beauty.

8 I have quite a bit of other information here but some
9 things that I have taken from your report on the public
10 preserve land is that the rocks in that area are 354 to 417
11 million years old. After a millenia of erosion, the rock that
12 was once buried in hundreds of feet of bedrock is now at the
13 earth's surface. A small portion of the preserved land is
14 underlain by the oldest bedrock in Maine, 1.6 billion year ago
15 prior to the emergence of life in the sea.

16 The area of Kibby is similar to this, not far from
17 it, only a couple miles. Not a site to support industrial
18 activity.

19 In closing, I would like to say that I've enjoyed
20 many, many memorable times. I'm concerned about the noise
21 level from the wind from the south, as we've seen from the Mars
22 Hill project. I'm concerned about the night sky, which nobody
23 has been there to witness, and the dramatic effect that all
24 these lights may have on the night sky.

25 As far as economic impact goes, we know there would

1 be a short-term benefit. I believe there won't be a long-term
2 benefit.

3 Dr. Bill Baker, who's also a property owner at Chain
4 of Ponds, has asked me to mention that he is also a member of
5 the National Park Service advisory committee, and if these wind
6 towers go in, he plans on selling as part of the economic
7 impact. He no longer values the property.

8 My last thing here.

9 THE CHAIR: Is this your last thing?

10 MS. MERRILL: This is my last thing. This is a quote
11 that saw in the autumn edition of Nature Conservancy and it
12 says, People take care of the things that they feel belong to
13 them, they take care of what they love. Please protect the
14 mountains that belong to the people of Maine and America.

15 THE CHAIR: Thank you, Wendy. Lloyd Cuttler, and
16 following Lloyd -- sorry -- following Lloyd is Janet Newberry.

17 MR. CUTTLER: Lloyd Cuttler, selectman Carrabassett
18 Valley where we sit today.

19 This is the third time in 14 months, I guess, I've
20 had the opportunity to talk to you, and you're probably a
21 little tired of listening to me, and I would be willing to bet
22 that no one behind me is going to change their opinion of the
23 way they feel, because we're the people that really are
24 impassioned by this whole issue, and you have a very difficult
25 decision, not that I feel continues to get easier as time goes

1 on.

2 I'm a strong supporter of the windmills. I'm a
3 strong supporter of our way of life. I guess what I really am
4 here to do is not change your mind or change other people's
5 minds, it's to take responsibility for my life, and I'm afraid
6 to say that 99 percent of the people have a life like mine,
7 they drive their cars, they turn on their lights, they have
8 their computers. There are few people here tonight that truly
9 I can respect when they say, we don't want a windmill, because
10 perhaps they read by candlelight and they live in the woods,
11 and they don't -- are not part of the power grid. Those people
12 I can respect.

13 Unfortunately 99 percent of us are not those people,
14 and we need to be responsible for what we do. One of the
15 things that I think my generation, other generations, have
16 grown into is not taking responsibility for what we've become
17 and where we're going.

18 Now when somebody falls off a curb, instead of saying
19 I'm stupid, it's, who can I sue. Well, we have an
20 environmental problem. We have all caused that environmental
21 problem. We have an energy problem. We are all daily part of
22 that energy problem. We need to do something. We need to
23 compromise.

24 I spoke to you last time. All things being equal, we
25 need to compromise. A windmill to me is a much, much smaller

1 compromise than a nuclear power plant and blowing up a mountain
2 and burning coal.

3 A windmill's face to the rest of the world, we, here
4 in Maine, are taking responsibility for the use of our energy.
5 Is it perfect? No. Is it going to solve all the problems?
6 No. But unfortunately there is no solution right now. We need
7 to move towards the solution. We need to continue to develop
8 different sources and be ready to compromise and be ready to
9 take responsibility for the fact that nobody is going to turn
10 the light off, we're going to try, we're going to conserve; but
11 even if we stop using more energy than we do today, we're going
12 to run out of oil. We're going to run out of coal. We have to
13 do something. We're going to run out of air to breathe.

14 Again, what I'm saying to you is that we need to take
15 responsibility. We cannot live by NIMBY. I hate to say it,
16 but that's really what this is about. We support windmills
17 there, just don't put it here. If you put it here, we'll
18 support it there. It doesn't work that way.

19 We all have to become part of the solution, and you
20 have responsibility of making us take the medicine. It's not
21 pretty but we have to take the medicine.

22 I said to you last time, and I really believe this is
23 important, as I look around the state, I used to work for
24 Duluth Wing, I flew across all those mountains that he walked.
25 A lot of them still have fire towers that were left there by

1 the State.

2 We have put thousands of cell towers on top of
3 mountains, and we don't think twice of what happens when
4 satellites become our form of communication, and we don't need
5 them.

6 We can't do that with windmills. I think a viable
7 compromise, something that people can live with, is to have
8 that cost built in that these windmills will be decommissioned
9 if hopefully something else comes along that is pure and clean.

10 It's not there today but it is very simple to
11 decommission a windmill, to take a tower off the mountain, and
12 allow nature to revegetate. It does it every time there's a
13 fire, it can do it if we destroy the top of the mountain. It's
14 a compromise but it begins us down that road of taking
15 responsibility for our energy glut.

16 Thank you.

17 THE CHAIR: Thank you, Lloyd. Janet Newberry, and
18 following Janet is Scott Cunningham.

19 MS. NEWBERRY: I'm Janet Newberry. I'm also a
20 property owner on Chain of Ponds. The camp that I own now has
21 been in my family for four generations, and it seems to me that
22 one of the issues obviously is economic versus intrinsic value.

23 I can see, just as an outsider being here part time,
24 that tourism is definitely part of this local economy, and it
25 also seems that it's pretty well habitated with the logging

1 industry, possibly because of the renewal of the forest on its
2 own.

3 Turbines, obviously, are going to stay. I think we
4 really have to look at why areas above 2700 feet were protected
5 in the first place, and, you know, do we want to keep that
6 legacy around, do we want to have them free and open as the
7 wooded areas they were meant to be.

8 It's true there's no electricity currently on
9 Route 27. Most places there are off the grid, and it's pretty
10 amazing, really, that it stayed that way this whole time. It's
11 on the edge of that huge area of unprotected land in Maine, but
12 the further we encroach on it, the less there's going to be.
13 So that to me is a big concern.

14 I think that the local businesses will be hurt if
15 people look and see that there are turbines and they don't want
16 to be recreating underneath the shadow of industry that they
17 would create.

18 So again, I just want to tell you, we appreciate that
19 you protect the mountains and we hope that you continue to do
20 so. Thank you very much.

21 THE CHAIR: Thank you, Janet. Scott please, is he
22 here? And then after Scott is Larry Warren.

23 MR. CUNNINGHAM: Thank you. I appreciate the
24 opportunity to speak here tonight. My name is Scott
25 Cunningham, I'm from Eliot, Maine. I'm a business owner, I own

1 a printing company that prints on recycled paper, uses
2 soy-based ink, and we recycle our waste paper as well.

3 I'm also a camp owner up at Chain of Ponds with some
4 of the other people here this evening. Having owned a camp on
5 a southern Maine lake for years, my family and I began to lose
6 the sense of escape, that is, development, jet skis and milfoil
7 all degraded what was once a beautiful weekend destination.

8 We searched extensively for two years, and in 2005
9 found a turn of the century log cabin in a region that appeared
10 unchanged by time: Chain of Ponds in Franklin County, Maine.

11 Despite the dark condition of the building, the sheer
12 beauty of the location bordering Maine State preserve land was
13 too much to resist. The granite cliffs, the fragrant cedars
14 that line the shores, the abundant wildlife that seems
15 unthreatened by the occasional boater are all testimony to the
16 magnificent wilderness experience enjoyed by all who visit this
17 enchanted area.

18 Now, however, the planned rezoning of Kibby Mountain
19 and Kibby Range for a wind power facility looms darker than the
20 black thunderheads that roll in over the Chain of Ponds after a
21 hazy summer day.

22 The proposed locations of the wind turbines, where
23 they can be clearly viewed by camp owners, sportsmen, and
24 recreational boaters on Chain of Ponds, as well as by tourists
25 travelling on a scenic byway, Route 27, illustrates the blatant

1 disregard for Maine's most precious unspoiled resources by a
2 foreign energy giant, TransCanada.

3 I do not believe the industrialization of these
4 natural treasures will produce the economic benefits that are
5 being promised. I would have reconsidered the purchase of my
6 camp on Chain of Ponds in 2005 if I had known that this project
7 was even a remote possibility.

8 People come to this magnificent region because of its
9 rare beauty and unspoiled wilderness. They buy retirement
10 homes and camps here to have the unique connection with the
11 beautiful natural surroundings.

12 The recent mild winters affecting the local business
13 economy will pale in comparison to the number of hunters,
14 fishermen, hikers, cross country skiers, and yes, real estate
15 investors, who seek better value and natural beauty elsewhere.

16 With current technological advances, wind plants can
17 be located at lower and less technologically sensitive areas,
18 such as Aroostook County, rather than on mountain ridges where
19 efficiency and reliability of these turbines is unknown.

20 I am hoping that LURC, as in the Redington project,
21 performs its duties and stewardship and votes against this
22 intrusive environmentally disruptive project to protect this
23 designated preserve land for future generations to enjoy.

24 Are any profits gained from this wind power facility
25 really worth permanently disfiguring western Maine's most

1 valuable resources: Mountains.

2 If the future of Maine's temporarily preserved
3 wilderness is going to succumb to the control of corporate
4 giants, political insiders, and lobbyists that were clearly
5 displayed at the wind power forum that you have met, then Maine
6 as a tourist destination with acres of unspoiled land will be a
7 memory of the past.

8 THE CHAIR: Thank you, Scott. Larry, are you here?
9 And then after Larry is Fred Hardy.

10 MR. WARREN: Good evening, my name is Larry Warren.
11 I live in Portland. I'm here to speak on my own account this
12 evening.

13 Some 30 years ago when the State formed the Bureau of
14 Public Lands, it had some decisions to make as to how to
15 consolidate those public lots, and its primary objective was to
16 consolidate and to trade out many of the public lands in
17 Somerset and Franklin Counties, the lands along Moosehead Lake.

18 I was a selectman at the time in the Town of
19 Carrabassett Valley and suggested that the appropriate role
20 would be to preserve some of the public lands for Franklin and
21 Somerset and other counties and to select the best and to
22 preserve it.

23 With Dick Barringer, we sat and talked about the
24 Chain of Ponds, and I strongly urged that the Department of
25 Public Lands acquire the lands on the Chain of Ponds, which it

1 did.

2 I was very pleased with that decision, and shortly
3 after that -- or years ago, 15 years ago -- when Chris Heard
4 came here to the community to work with Kenetech, I recall
5 Steve Wight sharing the public hearing that was held in the
6 Summit Hotel next door. It doesn't seem as long ago as it was.

7 At that point in time Kenetech wind power was
8 proposing 640 towers on this same project. They were looking
9 at the opportunities to create controls by using microwave to
10 control the pitch and yaw of those old wind turbines.

11 Now, I had suggested to Chris that a better
12 technology instead of microwaves to use fiberoptics and to put
13 fiberoptics onto that distribution line, interconnect with
14 Canada, form an interconnect with telephone, and have an
15 international opportunity for development.

16 Chris embraced it, and as you know, this Commission
17 approved it. The economics of the Kenetech plan basically
18 avoided its immediate installation.

19 Those leases were transferred from Kenetech to Zon,
20 from Zon to Enron, from Enron to TransCanada. Now here we are
21 again, instead of 640 towers, with 44 towers.

22 A much more efficient plan, one that I believe will
23 recognize the balance in terms of energy efficiency, and I
24 would urge that -- we who live here in Franklin County and in
25 Somerset County have a lot more in common and have a lot more

1 relationships with people across the Canadian border, whether
2 it's in Quebec, New Brunswick, or Nova Scotia than most of us
3 do with our neighbors to the south, whether it's Connecticut,
4 Massachusetts, Rhode Island, or New York.

5 My son was educated in New Brunswick, Prince Edward
6 Island, and I have a lot of very close ties and I worked for
7 three years outside of Montreal. Never was I chastised or
8 castigated for being involved in international trade in Canada,
9 in Portugal, in Martinique or Guadeloupe.

10 I think that the representation that I've seen by
11 TransCanada has been very responsible and outstanding. Their
12 commitments to the communities and their outreach to try to
13 identify projects and opportunities that can benefit future
14 generations of people in this region has been very commendable.

15 I like what I see and I like what I hear. I would
16 urge you to approve this project and move it forward. Thank
17 you.

18 THE CHAIR: Thank you. Fred. And following Fred is
19 Nancy Merrill.

20 MR. HARDY: Good evening, Mr. Chairman and members of
21 the committee. My name is Fred Hardy and I am a resident of
22 New Sharon, Maine. Before I start my formal testimony, I would
23 like to mention that I am a County commissioner in Franklin
24 County and the other commissioners send their greetings, as we
25 have endorsed this project as you've heard before here tonight;

1 however, I believe it was noted that there's only three of us
2 and three selectmen in one of the towns here, so that's only
3 six people, but in an elected office, if I don't have a
4 majority vote from about 10,000 in one part of the county -- I
5 represent District 2 -- then I wouldn't be here.

6 As I said, my name is Fred Hardy and I'm a resident
7 of the town of New Sharon. I serve on the board of directors
8 of the Greater Franklin Development Corporation located in
9 Farmington.

10 I am here on behalf of the board of directors in
11 support of this project. For the past eight years we, as an
12 organization, have had the responsibility of creating new jobs
13 in the Greater Franklin County area, primarily through business
14 attraction.

15 It is the goal of Greater Franklin to be diverse in
16 the economic development initiatives undertaken to replace the
17 more than 1000 jobs lost over the last decade in the
18 traditional industries of agriculture and the manufacturing of
19 shoes and wood products.

20 TransCanada's Kibby wind power project will satisfy
21 an economic need in the local area by providing a potential of
22 10 new permanent jobs at peak and 250 construction jobs over
23 the course of one year in Franklin County. It is estimated
24 that the construction jobs created by the Kibby wind power
25 project will generate annual wages of nearly \$5.5 million,

1 which does not include benefits.

2 The Kibby wind power project is also expected to
3 generate 10 permanent jobs related to the operation of the wind
4 power facility. These jobs are expected to generate \$380,000,
5 not including benefits.

6 The jobs created by the Kibby wind power project will
7 provide a weekly salary well above the average weekly wage for
8 the region. This quarterly data regarding wages from fourth
9 quarter of 2006 indicates that the average weekly wage in
10 Franklin County is \$581. The positions created at the Kibby
11 wind power project would pay approximately \$730 a week, well
12 above the average wages in the jobs in the Farmington labor
13 market area, which as of July 2007 has an unemployment rate of
14 6.4 percent.

15 The indirect impact of the Kibby wind power project's
16 creation of 250 construction jobs on all other industries is
17 estimated to be 125 more jobs in the Maine economy. Therefore,
18 the total employment impact of the Kibby wind power project
19 during the construction phase would be the creation of 375 new
20 jobs on the local area and in Maine, with total wages and
21 salaries reaching nearly \$9 million.

22 Given that, the Kibby wind power project will employ
23 10 operations personnel. The calculated total employment
24 impact would be 40 new jobs in the regional economy.
25 Therefore, the presence of the Kibby wind power project will

1 result in the indirect creation of 30 new jobs in other
2 industries, for example, vendors, suppliers, restaurants, gas
3 stations, retail stores, and services.

4 Other local investment, the Kibby wind power project
5 is an estimated \$270 million project representing a very
6 significant private investment in Franklin County, as well as
7 the state of Maine.

8 Taxes to the Franklin County unorganized territory
9 fund are expected to be in excess of \$1 million per year,
10 making this project the largest contributor to this fund.

11 TransCanada has also developed a community benefits
12 package with the Town of Eustis to give them \$132,000 per year
13 based on \$1,000 per installed megawatt, and the taxes on the
14 transmission line running through Eustis will provide an
15 additional \$25,000 per year.

16 TransCanada's commitment to purchase from local
17 suppliers will help retain and grow our existing businesses in
18 Franklin County.

19 Tourism is a leading industry sector in Franklin
20 County. I'm not aware of any study or any report indicating
21 that wind farms adversely affect this industry. In fact, a
22 review of literature indicates that wind farms and tourism are
23 compatible. A study performed in November 2003 examining the
24 potential impacts of a wind farm on the tourism industry in
25 Vermont found that tourist regions whose primary attractions

1 are nature based also highlighted wind farms, along with
2 lodging, restaurants, canoeing, fishing, and hunting, wildlife
3 viewing, biking, horseback riding, and skiing, as well as other
4 activity.

5 Wind farms appeared to increase the tourism to
6 certain rural destinations by attracting the curious along with
7 their tourism dollars. It has been noticed that visits have
8 increased in the many areas, and new wind farm attractions have
9 inspired new business development. Wind projects are known to
10 increase tourism in an area.

11 Natural resource industries have long been the
12 backbone of the economy in the Greater Franklin County area,
13 although still present, the forest product companies are on the
14 decline. Therefore it is important that we seek new
15 opportunities in renewable natural resource based industries.

16 The Kibby wind power project will strengthen the
17 economy of Franklin County, and it can happen without undue
18 adverse impact on others. A stronger economy benefits
19 everyone.

20 The Kibby wind power project offers Franklin County a
21 clean industry using a renewable natural resource with
22 excellent wages and benefits for the people of this region.
23 The skills required for these jobs can easily be filled from
24 the available labor force. This is an important opportunity
25 for Franklin County to keep its people earning a living in a

1 place where that they love to live.

2 I strongly believe that there is a great need for the
3 Kibby wind power project because it will provide high paying,
4 sustainable jobs, and secondary economic benefits to the
5 Franklin County area, while helping to reduce air pollution and
6 to reduce reliance on fossil fuels.

7 On behalf of the Greater Franklin board, I ask the
8 Commission to approve this application. I apologize for you
9 somewhat that Alison wasn't able to be here tonight. So I had
10 to fill in for Alison. I have, however, been a resident of
11 Franklin County for all but nine years of my life. In fact, I
12 lived in the town of New Sharon for 47 years. I've been around
13 here for a while.

14 THE CHAIR: You've been around these hearings for a
15 while, too.

16 Nancy. And then after Nancy is Steve Bier.

17 MS. MERRILL: I'm Nancy Merrill and I'm here speaking
18 on behalf of the board of directors for the Franklin County
19 Chamber of Commerce to express our support for the Kibby wind
20 power project.

21 We're a nonprofit membership organization of business
22 and civic leaders through partnerships and other groups and
23 individuals, seeks to promote economic growth, tourism, civic
24 pride, and cultural awareness.

25 TransCanada presented to our board of directors and

1 answer our questions about proposed wind development projects,
2 and we believe that this project and the company that would own
3 it and operate it, TransCanada, would be an excellent addition
4 to Franklin County.

5 We are, of course, especially interested in the
6 project's economic impacts. The 250 or more jobs during peak
7 construction and the more than 12 permanent jobs that this
8 project would create will be a support for many families in
9 Franklin County and elsewhere in Maine.

10 Additionally, the Kibby wind project would likely be
11 one of the largest tax payers in Franklin County, and
12 TransCanada initiated an agreement with the Town of Eustis to
13 provide additional funds on a yearly basis that the community
14 can use as it sees fit to improve their quality of life.

15 This type of clean sustainable economic development
16 sponsored by a socially responsible company is critically
17 important to the future of Franklin County. Thank you.

18 THE CHAIR: Thank you, Nancy. Steve. Following
19 Steve is Phil Kiendl, I think it is. Sorry if I mispronounced
20 that.

21 MR. BIER: My name is Steve Bier and I'm a family
22 physician in Farmington, and I've lived in -- the past 25
23 years -- in Jay. I've been a hiker and environmentalist for
24 all of my adult life, and I wish to speak against this project.

25 Angus King once said that no fish should leave the

1 state of Maine with its head on. Governor King was referring
2 to the tired Maine history of selling its goods on the cheap
3 while others made the real money with their own value added
4 process. I believe in the final analysis, the Kibby Mountain
5 project will be seen in this light.

6 From Maine's earliest days as a colony of
7 Massachusetts to the present, if this commercial pattern
8 remains, Mainers lose. In the earliest days of our existence
9 as a territory, 90 percent of the state was sold off to private
10 interests who took what they could as fast as they were able.

11 The days of the forest barons are over, and we now
12 have degraded forests and more value to real estate markets
13 than the commercial forests. This has led to a current land
14 swap, which has seen 20 percent of the state change hands in
15 the last decade and the commercial decline of logging as an
16 industry.

17 In addition, this transformation has led to
18 unprecedented second-home construction in previously
19 undeveloped areas with more gated roads, fragmentation of
20 habitat, and areas previously open to traditional uses, such as
21 hiking, fishing, and hunting now closed. If we are not
22 careful, this is the way of Maine's future.

23 I believe TransCanada's interest in Maine's wind
24 resources are part of this pattern. Boundary mountains have
25 been logged off and entire hardwood woodlands have been resold

1 to Plum Creek and now passed along to TransCanada for another
2 level of resource extraction.

3 TransCanada is not a public interest company. Of
4 course they see opportunity in what is deemed the current
5 energy crisis, and why shouldn't they, I'm a business person,
6 too; but let us not fool ourselves. If there were not profits
7 to be made, they'd be spending their development capital
8 elsewhere. So those of us concerned about the public good of
9 this state should ask, what is in it for us. After all,
10 rezoning is far from an entitled right for them.

11 Jobs. Their website indicates there could be as many
12 as 250 jobs in the early phases of construction followed by
13 rapid shrinkage, 10 to 20, to maintain the project. If
14 patterns elsewhere hold, these technical jobs will likely not
15 go to local residents, in any event the number of jobs is
16 relatively small.

17 Money. TransCanada is offering the Town of Eustis
18 \$1000 per installed megawatt, or \$132,000 a year, which is a
19 lot of money for a small town, but in fairness to the cost and
20 benefits, they need to be amortized over the whole state to
21 feel the impact of industrializing the previously protected
22 mountain zone.

23 The whole state will share in the implications of
24 zoning for precedence. The whole state rises and falls on how
25 our resources are protected or spent. It's not hard to pay off

1 a town, which begs the question of the costs and benefits of
2 the shared resource.

3 Green power and climate change. This is potential
4 claimed away, and I feel that the purported damages do not
5 withstand scrutiny. If every advertised kilowatt hour is
6 delivered to users, this still represents only a fraction of a
7 percent of our electrical use and will easily be swallowed up
8 by the ongoing per capita annual increase of 1.8 percent in
9 electrical demand that Maine has been seeing.

10 Without efforts to regulate Maine's energy demands
11 described by Governor Baldacci as an insatiable beast, this
12 project will have little or no impact on our swelling carbon
13 footprint and no impact on climate change. It will not take a
14 single coal-fired plant off-line, it will not save any
15 mountaintops.

16 If it looks like carbon is regulated through a cap
17 and trade system, then whatever savings are accomplished here
18 will be sold and used by those as capital somewhere else.

19 In this context, wind power projects like this are
20 little more than a feel good project at a time when impacting
21 global climate change really calls for a profound societal
22 approach to energy use. Why should we sacrifice a ridgeline
23 when consumption goes unchallenged and unaddressed.

24 There are other reasons to think that generation
25 capacity will be less than advertised. This project is a

1 harsh -- is in a harsh alpine environment, and any engineer
2 knows that cold and ice are hard on equipment. What are the
3 maintenance realities of a project of this kind? How much down
4 time will there be? What will be the longevity of the
5 turbines? Does anybody have the experience to know?

6 Though both Maine Audubon and the Appalachian
7 Mountain Club organizations I belong to support this project,
8 the published siting criteria does not. The boundary mountains
9 seem to be at least moderately unsuited and possibly strongly
10 unsuited by most of the criteria, including potential soil
11 damage, impacts on recreational potential, for background
12 country recreation use, habitat fragmentation, view impacts --
13 others have alluded to -- and impacts on a valuable subalpine
14 spruce-fir community.

15 For reasons that are obvious, the majority of wind
16 farms worldwide are in far different settings. In our country
17 the Midwest is where the real energy boom is happening because
18 the wind resource there is dependable and wind energy and
19 existing uses -- especially farming -- comfortably coincide.

20 Maine has vast offshore potential estimated at more
21 than adequate to take care of our needs, but that has yet been
22 explored. The Aroostook County wind project, now in its
23 planning stage, is estimated to generate 500 megawatts, more
24 than all the existing proposed wind projects combined.

25 One wonders, then, why so much money is being put

1 into a site that is so marginal, controversial, when there are
2 better alternatives. Furthermore, technology rapidly changes,
3 and no longer is it the case that wind power requires Class 3
4 or 4 wind. The specifications of towers now allows productive
5 installation at 10 to 12 miles per hour average wind speed, and
6 this will allow their placement in lower elevations closer to
7 populations where they should be.

8 I am not a NIMBY. I want this in my backyard,
9 literally. Once the Kibby turbines are installed, we're going
10 to be stuck with rapidly obsolete technology strung across 13
11 miles of ridgeline.

12 The Appalachian Mountain Club study criteria further
13 suggests that projects are made for permanent and verifiable
14 improvement in the region's air quality. Wind power projects
15 lead to replacement of electrical generation and fossil fuel
16 sources. This has not been proven.

17 So if those are the benefits, what are the costs?
18 The economic costs are a short change in our economic future.
19 Fragmenting value of habitat, creating a precedent of
20 industrial development in delicate protected habitat, and
21 permanently degrading a remote undeveloped resource.

22 Sunday my wife, a friend, and I hiked across the
23 Kibby Range, and as we sat on the flanks of the western part of
24 the wishbone for lunch and gazed 18 miles to the south and took
25 in a magnificent sweep across the ridges from Moxie, across

1 Bigelow, to Cranberry, to Flagstaff Lake, then Jim Pond
2 glistening in the mid ground. Between us just the winds. This
3 area is a gem.

4 Sure the Kibby area is heavily cut. So are the White
5 Mountains, the Smokeys, and what is now Baxter State Park.
6 With necessary visions to see what will be there over time,
7 these areas have become spectacular national recreation
8 resources. I believe Kibby Range could be one, too.

9 The recent workings of port charting Maine's future
10 spent a great deal of time detailing sprawl and suburbanization
11 that is threatening culture, recreation, and economic prospects
12 of our state.

13 In their analysis protecting the Maine brand,
14 reputation for unique scenery, wild lands, and lack of
15 development sprawl so typical elsewhere are central to our
16 future. These qualities are the ones that will attract the
17 next generation's business entrepreneurs who come because Maine
18 is beautiful and is a recreational treasure chest.

19 The Commission's comprehensive lands use plan states
20 that the commission must reconcile the need to protect the
21 natural environment and other important values and uses that
22 cause degradation with the need for traditional resource-based
23 use and reasonable and new economic growth and development.

24 It is not the task of the Commission to solve Maine's
25 energy problems. Protection of Maine natural resources for the

1 greatest good is the issue, and I don't feel this project
2 passes your standards. Let's follow Governor King's advice and
3 use our resource for their best now and for the future.

4 THE CHAIR: Thank you, Steve. Phil. And following
5 Phil is David Maxwell.

6 MR. KIENDL: Again, I'd like to thank you for the
7 opportunity to comment on this rezoning petition tonight for
8 the proposed TransCanada Kibby wind power project.

9 My name is Phillip Kiendl, and I am the president of
10 the Chain of Ponds Camp Owners Association. Our camps are
11 located in the area known as The Narrows, which face directly
12 towards Kibby Ridge and Aziscohos Mountain. The camp owners in
13 our association are firmly against any industrialization of
14 this pristine wilderness, and I speak tonight on behalf of
15 those who cannot attend these proceedings.

16 Our camps and property of the chain were once a part
17 of Megantic Fish & Game Club, the oldest sportsman's club in
18 North America. Referred to as a preserve in the old records,
19 these camps were built in the late 1800s and early turn of the
20 century. It is an area unlike any other, one that has been
21 protected by the State of Maine for years so that people from
22 Maine and beyond can experience mountains, forests, and the
23 ridgelines that have been untouched by development and human
24 activity.

25 The views we see of the mountains from our camps at

1 Chain of Ponds today are virtually the same as those seen by
2 the Army of Benedict Arnold as they marched and portaged their
3 way to Canada. The same area is now being proposed for
4 industrialization, and you, as a land use regulatory
5 commission, must uphold the value the State of Maine put on
6 these boundary mountains many years ago.

7 The Kibby Range, like all the mountains in your
8 jurisdiction, is zoned against development above 2700 feet.
9 The reason for this is to protect the fragile soils at that
10 height, endangered birds and wildlife that live up there, and
11 the views of the land that is so awe inspiring to visitors.
12 People travel great distances to see this remote and historic
13 region of Maine.

14 Who will want to come to this area in the great north
15 woods when their view of the sunrise is blocked by a wind
16 turbine, and the full moon rising over Aziscohos Mountain is
17 obstructed by blinking red lights from illuminated a 440-foot
18 tall wind generator? Not the group that visits my camp.

19 These are the visitors who shop and dine in Eustis,
20 who go to Stratton to load up on groceries and clothing in
21 preparation for their time away from the pressures of life in
22 the metro areas.

23 Not the people who camp at Natanis Point Campground
24 and kayak down the Dead River during spring runoff. This
25 segment of the tourist market is looking for the wild beauty of

1 an untouched wilderness.

2 The rezoning of these mountains will drastically
3 affect the economy of this region in Maine because these people
4 will stop coming. The region relies on tourists and revenue
5 from fish and game licenses, retail sales, room occupancy, and
6 meals. This will all be lost.

7 Our camp owners association, the Chain of Ponds, is
8 made up of a very diverse group of individuals who have all
9 worked tirelessly to restore and preserve the historic nature
10 of our camps.

11 We are not adverse to the concept of wind power, but
12 the boundary mountains are not the place to begin the
13 industrialization of Maine's ridgelines. Rezone Kibby Ridge
14 and you open the flood gates for utility companies who want to
15 take advantage of tax credits and care little about the scenic
16 beauty and wildlife habitat they will destroy in the process.

17 For them it's all about the money. It's not about
18 the benefits to the region, because there are none that would
19 justify the destruction of wilderness forests to make way for a
20 permanent, unmovable utility plant on the high ridges of Kibby.

21 You must weigh the balance of cost versus benefit and
22 the certainty that once you rezone this area, you will be bound
23 to do the same for others in the state.

24 Wind power plants don't need to be placed on high
25 mountain ridges. The advances in technology make it possible

1 to place them in agricultural areas that will not affect
2 wildlife habitat or wilderness forests.

3 Along with the turbines come access roads,
4 transmission lines, and substations all carved permanently from
5 wooded mountainsides. For what? Maine already has enough
6 power, so much power that it sells it to other states. Jobs
7 will be created, but most will be short term and few are lucky
8 to go to local people.

9 It is up to your Commission to maintain the value
10 that the State of Maine has placed on these high ridges.
11 People travel great distances to enjoy the scenery of these
12 boundary mountains, and the Chain of Ponds Camp Owners
13 Association implores you to deny the rezoning of this pristine
14 wilderness, to keep it forever wild, and free for future
15 generations. Thank you.

16 THE CHAIR: Thank you. Okay. David.

17 MR. MAXWELL: My name is David Maxwell, and I've been
18 coming to this area since 1969. I'm a property owner in this
19 area, and I own a house on Eustis Ridge and another cabin down
20 on Flagstaff Lake.

21 The reason that I have invested in this area was
22 because of the unique -- I would use that word despite what the
23 visual consultant said this morning -- the unique beauty of
24 these western mountains.

25 These mountains, ultimately, are the reigning natural

1 resource in the northeast. They are precious in that regard
2 and deserve the protection of LURC.

3 LURC's primary mission, as I understand it, is to
4 protect the natural resources of Maine, and certainly that
5 includes the area of these western mountains.

6 I have heard arguments made during these proceedings
7 by certain environmental groups, such as the Natural Resource
8 Council of Maine and the Appalachian Mountain Club, that these
9 mountains in effect, they might be expendable to the extent
10 that they are developable.

11 I think that has evolved from a sort of
12 out-of-site/out-of-mind kind of policy that is increasingly
13 troublesome not only among environmental groups but among
14 government agencies as well.

15 In fact, there are many individuals who are not
16 card-carrying members of the Appalachian Mountain Club who
17 enjoy this concept of remoteness and what does that mean?
18 Remoteness.

19 I understand that's a new word for what some people
20 perceive as wilderness or semi-wilderness or quasi-wilderness,
21 but to the campers, to the hikers, to the people who go back
22 into the area of Kibby and enjoy its many qualities, that is
23 wilderness to them.

24 So I think that deserves some respect and some
25 acknowledgment that just because an asset is not immediately

1 available to public use, it no way diminishes the value of that
2 asset. You must take a long-term view. I think LURC is
3 sensitive to that point.

4 The other thing that I want to comment on here this
5 evening is the perception that sort of was left here this
6 morning given the testimony of the visual consultant that there
7 would be no visual impact of this project.

8 I can tell you, as someone who owns a cabin on
9 Flagstaff Lake and the near vicinity of Cathedral Pines
10 Campground where hundreds of campers come every year and bring
11 money into this area, economic boom to Stratton certainly, that
12 this project will be visible, it definitely will be visible,
13 and it certainly will be visible at night as the orange glow
14 lights up the otherwise northern sky and its beauty, starlit
15 beauty.

16 So that's the kind of desecration I think that we're
17 talking about here that is untenable to many of us who object
18 to this project.

19 The other thing I would say is that there are tax
20 paying residents here who live in other areas, like on the
21 north side of Eustis Ridge, who said this morning there are
22 only two or three camps up there. There are probably 30 camps
23 and homes up there, people who bought homes in that area in
24 part because of the visual significance of their view there,
25 and that's going to be impacted, and these are tax paying

1 residents.

2 Now, it's also been implied that there is no interest
3 among the residents of Eustis and Stratton. I think that's not
4 true, it's not the case. People I've talked to sort of feel
5 this is a done deal, it's already over. Why? Because the
6 selectmen and the County commissioners have supported this
7 project in the absence of any input from the communities.

8 There's been no public hearings supported by the
9 selectmen or the County commissioners on this issue. They in
10 turn have made their own deals with TransCanada, unbeknownst to
11 the public, to support this project.

12 For that reason alone, I think that LURC shouldn't
13 support this. It has no real ground root support. Thank you
14 very much.

15 THE CHAIR: Thank you, David. Let's take about 5
16 minutes here to stretch our legs and give the court reporter a
17 little break. Try to be back here around 8 o'clock or so.

18 Thank you.

19 (There was a break in the hearing at 7:54 p.m. and
20 the hearing resumed at 8:04 p.m.)

21 THE CHAIR: Folks, do you want to continue or are we
22 all done for the night? The next person on the list is Mel.
23 I'm sorry, I can't read your last name. Come right up, Mel.
24 After Mel is Sara Woods. Please go ahead.

25 MR. BOUHOULIS: My name is Mel Bouhoulis, I'm a

1 resident here in Coplin Plantation. I've been here since 1987.
2 I currently work with the school district, SAD 58.

3 I'm coming to you tonight in favor of the wind power
4 program. I worked a little bit with the Kenetech program in
5 the mid '90s. I think it's a good project. I think it's
6 something that needs to come.

7 We can't keep pumping petroleum out of the ground and
8 natural gas forever. Alternative energies are going to be
9 mandatory sometime. I think the day will come when you're
10 going to want no 44 towers, but probably a hundred times that
11 many, not necessarily all on the mountains up here. We're
12 going to need alternative energy.

13 We presently have the military that is bound to
14 petroleum products and nuclear, and every bit that we can do
15 lessens the demand that they have.

16 I've heard a lot of interesting comments here
17 tonight, and guys have quite a challenge for you. I'd like to
18 take you back if you could take your committee and take it back
19 50 years, a little bit more than that, and what you would think
20 if we said we were going to take chain saws and some skidders
21 and we were going to start cutting trees from Stratton to
22 Lexington and put a pile of cement down at the end of that, and
23 today we have beautiful Flagstaff Lake because of that project.
24 Somebody approved that.

25 The same thing is going to happen here. Tourists, I

1 think, will come for your wind tower, windmills. It's
2 interesting, I recently came back from Germany. There are wind
3 mills all over the place over there. They're not an eyesore,
4 well maintained, and I don't see anything really rotating real
5 fast when I observed those windmills.

6 I do ask that in your decisions that when you review
7 these proposals that -- I don't know a lot about TransCanada,
8 how large an outfit they are, I assume they're pretty big, a
9 lot bigger than Kenetech was -- but in your review of their
10 proposals, I would engage you to review that should they fall
11 flat on their face, have means to get rid of these windmills on
12 the mountains.

13 Also, 10 years from now or however long, if they go,
14 oh, let's sell this to Boralex or something like that, let's
15 get out of business, make sure whoever they sell it to has the
16 capability to maintain and keep these things going good, and if
17 they need to decommission them, make sure the funds -- or
18 they're financially capable -- to get rid of these things if
19 they have to.

20 I think they're providing a piece of equipment, and I
21 think we're going to need a lot of them. The trust is in your
22 decisions in reviewing these projects in detail.

23 I don't know a whole lot about their project that
24 they have other than 44 is a lot smaller than what Kenetech
25 had. Seems like a pretty good project and I go for it.

1 Thank you.

2 THE CHAIR: Thank you, Mel. Sara, are you here
3 somewhere? After Sara is Wendy Wyman, I think.

4 MS. WOODS: I am Sara Woods, past selectman of
5 Eustis, a school board member, resident, past business owner in
6 Eustis.

7 I was before this committee back in the early '90s as
8 a selectman for the Kenetech project. At that time when it was
9 accepted at 400-something towers, 44 is minimal. This kind of
10 feels like déjà vu. The same people are up against this,
11 almost the same as before. A few different new faces but the
12 same.

13 These mountains are not pristine mountains. They are
14 a working viable seven-day-a-week business and have been for
15 many years. My relatives are from the Eustis area, and back in
16 the early 1900s we had farms, many farms. Now the farms are
17 gone, the woods have reclaimed all of that pasture land that
18 was used at that time for cattle and cows and so forth.

19 Yes, we live by tourism. We live by the weather up
20 here. When I first came here from Connecticut 17 years ago, I
21 could not believe that a community would live by the weather
22 because it wasn't the same in Connecticut. We don't live by
23 tourism.

24 I see many a camper, many an ATV all using these
25 woods roads that were made for businesses, and I happen to live

1 on Flagstaff Lake myself and we use the lake. We fished at
2 Chain of Ponds. I've been the only boat on that pond for two
3 straight days morning to night, and you can't see anything from
4 Chain of Ponds but the woods right around you. You can't see
5 above the mountains, so I'm really not quite sure how they're
6 going to see towers.

7 They all use generators up there -- either powered by
8 gas, propane, whatever -- for their power. You're not going to
9 stop power use. I know myself I've gone to the power saving
10 bulbs to help and whatever, but still we have new homes. Half
11 a million dollar homes are being built in the Eustis area, and
12 these aren't for residents, they're for out of staters that
13 come to snowmobile, ATV, ski at the mountain. We're like a
14 bedroom community right now for Sugarloaf.

15 They do not live there full time. Many of the people
16 I've spoken to in town are for the windmill project, and I
17 mean, if you're going to live by tourism, give them something
18 else to look at.

19 You know, they come for leaf peeping, they call it,
20 they come for skiing if there's snow. The last two years we
21 had not had snow until April. They're mowing lawns.

22 We have lost -- three, four restaurants have closed
23 because they didn't have enough money to keep operating. We've
24 lost a lot of residents. Businesses have closed. We need the
25 income that would be generated from this.

1 Even though I just heard that there were no public
2 hearings, our Town had public hearings. Every one of our
3 selectmen's meetings are open to the public. Everybody in town
4 that was interested had an opportunity to go to those meetings,
5 hear the information, and vote; and they chose not to. They
6 chose to come to this venue to say what they have to say which
7 is okay on their part but it doesn't look good for our
8 community, and there are a lot of people that are very
9 interested in this project. They were interested in Kenetech
10 when they were going to go and that was passed.

11 I personally don't understand what the difference is
12 and why this procedure goes on again 12 years later.

13 The people in the area cannot live just on the
14 weather. This project will bring people to town, maybe some of
15 it comes from construction that aren't from here will want to
16 be here. Maybe they'll buy here.

17 We're in the middle of a consolidation ordered by the
18 State of Maine for school districts because of population, our
19 school-aged children population is dropping. We have two very
20 big businesses in our town, and not all the people employed
21 there live there.

22 So this income that would come from this project --
23 be it short, I don't think it's going to be that short for the
24 term that it's there -- it may bring people into our town that
25 would be interested in living there because of where we are and

1 wanting to continue on with this company.

2 I personally, for myself, as a school board member
3 and as a resident of the community and my family, you know,
4 being here since the late 1800s, I've watched this community.
5 I've watched the businesses come and go, and I've watched the
6 logging come and go.

7 When I first came, my biggest concern was the
8 clearcuts and 50 log trucks an hour going through town. We
9 don't even have that now.

10 So, you know, it's necessary as an income thing, and
11 I appreciate you listening to me. Thank you.

12 THE CHAIR: Thank you, Sara. Wendy Wyman, is she
13 here? And following Wendy is Mike and Wendy Darienzzo.

14 MS. WYMAN: Good evening. My name is Wendy Wyman,
15 and I just wanted to speak my peace that I am in favor of the
16 wind power project. I think it's a good clean renewable source
17 of energy.

18 I also wanted to point out, I haven't heard it stated
19 tonight, but in the last -- in recent months it was splashed
20 all over the newspaper that Sugarloaf is getting their -- they
21 have contracted their electricity from wind power, so when
22 people talk about the wind power going down the road and not
23 coming back to the community, it can, if you choose that source
24 of energy.

25 I just wanted to say that I was in favor of it, and I

1 hope you all vote that you are in favor of it also. Thank you.

2 THE CHAIR: Thank you, Wendy. Appreciate that. Mike
3 and Wendy, are they here? I don't know if they both wanted to
4 speak or one of them. Oh, here we are. Following that is
5 Richard Batt.

6 (Witness was sworn.)

7 MS. DARIENZZO: I guess I'll just speak for myself.
8 I work for a nonprofit private school in the area, and we have
9 two children and would like to stay in the area and have our
10 kids educated and come back to this area and grow their
11 families.

12 From what I know of TransCanada, they're as
13 ecologically conscious as a large company can be. They've
14 really gone above and beyond, I think, to educate the area, and
15 I think it will be good for the economy and globally I think
16 wind power is the way to go. Thank you.

17 THE CHAIR: Thank you, Wendy. Richard. Are you
18 here? There he is. After that is Jean Stewart.

19 MR. BATT: Good evening. This is sort of like an
20 endurance contest.

21 I am here to advocate that a statewide plan for wind
22 power should first be developed and the Kibby wind project
23 should be evaluated against that plan.

24 Do not act until there is a statewide plan in place
25 first. Simply put, aim, then fire; don't fire, then aim.

1 I am Richard Batt, I'm a resident of Wilton, Maine.
2 I waived introduction. I am the president of Franklin Memorial
3 Hospital in Farmington. I have a bachelor's degree in science
4 from the University of Notre Dame and a master's degree in
5 business administration from the University of Chicago.

6 I'm a member of the Board of the Maine Development
7 Foundation, the Maine Hospital Association, and the University
8 of Maine at Farmington. I was a founder of the Greater
9 Franklin Development Corporation, but tonight I speak for
10 myself this evening.

11 About six months ago the Brookings Institute, a
12 prestigious national non partisan socially oriented economic
13 research organization released the results of a 1.5 year study
14 of the Maine economy.

15 This million dollar study indicated that Maine needs
16 to be very careful to make smart business decisions. The
17 Brookings study pointed out that Maine is presently allowing
18 development decisions that in the long run threaten to hurt the
19 very way of life that makes Maine so special.

20 Here are some quotes from the Brookings Institute
21 study about Maine' economy, and I quote, "The wheel of economic
22 development potential may be turning in Maine's favor as the
23 search for quality places grows in importance.

24 "Maine possesses a globally known brand built on
25 images of livable communities, stunning scenery, and great

1 recreational opportunities.

2 "Likewise, as innovation drives the northern economy,
3 Maine's reputation for Yankee ingenuity and resourcefulness
4 matters more. On several counts, in short, Maine is
5 surprisingly well positioned for the future, and yet for all
6 that, Maine's future success is by no means assured.

7 "Workers see quality jobs -- their own and others --
8 being replaced by lower paying ones, yet often lack the skills
9 or opportunity to trade back up. Policymakers found the
10 promise of Maine's traditional and high tech industry clusters,
11 but meanwhile the hope for future of plentiful, good paying new
12 jobs seems to come too slowly, especially in rural areas.

13 "And all the while unplanned haphazard suburban
14 development rushes along too fast in many places taking away
15 something, a cherished wood lot or open field, a favorite point
16 of water access for fly fishing, the certain -- the way a
17 certain small town felt," and I'll leave my written remarks the
18 attributions of where that came out of the Brookings study.

19 If you allow noisy 450-foot spinning pinwheels to be
20 put on the tops of our local scenic mountains, you may
21 partially destroy the way of life that makes this place so
22 special for us and is the foundation of our economic
23 prosperity.

24 You could be making exactly the development mistake
25 the Brookings economic study cautions against, exactly the

1 mistake they warn against; but as many people have pointed out
2 and will point out tonight, society needs many more renewable
3 sources of energy, including wind power.

4 So what is the answer? You have a tough choice to
5 make. There are strong pros and cons to this project. I am
6 here to suggest you postpone a decision, because if you decide
7 now, you do so absent a statewide plan and absent thoughtfully
8 developed criteria.

9 The governor's created commissions to make
10 recommendations about how wind power should be developed in
11 Maine. I know that as the governor created this Commission, he
12 said this particular project should be exempted from the
13 process.

14 Respectfully, I observe that that suggestion is
15 illogical and dangerous. You should not decide on a huge
16 action with permanent consequences before the Maine strategic
17 plan is in place. That's like saying, ready, fire, aim.

18 Wind turbines located on the boundary mountains could
19 produce great social advantages, both economically and
20 environmentally, but they also have the potential to change the
21 character of the land for generations. This project has the
22 potential to impact the character of our culture.

23 I don't know that much about land and resource
24 management, but I know a considerable amount about how to make
25 good decisions. In this case, a public policy should be

1 established and thoughtful criteria should be created.

2 We have the resources right in our community that
3 could help with this process. This decision should be formed
4 by environmental studies and business and science faculty
5 members at the universities and colleges in Maine. Then, and
6 only then, should individual decisions be made on specific
7 projects, including the project now before you.

8 You know well that the business interests are anxious
9 to get going. There is power and lots of money to be made and
10 big tax credits ready to be earned. Lots of people and
11 organizations are waiting for the promised money to flow to
12 them.

13 There are a lot of people who don't even see the
14 boundary mountains, in fact, people that don't even know
15 exactly where the boundary mountains are who use a lot of
16 energy living in big houses and commuting long distances in
17 large cars and trucks, and who will briefly feel better about
18 their impact on the environment if this project is approved.

19 But you have one chance to get this right. I repeat
20 the quote by the Brookings Institute, and yet for all of that,
21 Maine's future success is by no means assured.

22 All the while, unplanned haphazard suburban
23 development rushes along too fast in many places taking
24 something away, a cherished wood lot, or open field, a favorite
25 point of water access for fly fishing, the way a certain small

1 town felt.

2 The idea of putting spinning windmills on our
3 unspoiled mountaintops is not the kind of suburban development
4 this report references but absent a statewide plan, strategic
5 plan on wind power, this project is exactly the type of
6 unplanned development that the Brookings Institute advised
7 against: Unplanned development that can take away our
8 cherished way of life.

9 No amount of money is worth it if we lose what is
10 special in our culture.

11 I do not speak in opposition to this project. I ask
12 you to await a strategic plan and decision criteria before you
13 act on any wind project. If a statewide plan produces criteria
14 that favors the Kibby wind project, then this project should be
15 approved.

16 But it is foolish to shoot and then aim. If you do
17 so, you risk damaging the way of life that defines the
18 character of Maine, a way of life that has led people from all
19 over the world to come to know our state as the way life should
20 be.

21 Thank you for listening to my suggestions.

22 THE CHAIR: Thank you, Richard. Jean. And after
23 Jean is David Bragdon.

24 MS. STEWART: I'm a resident of Franklin County, and
25 I work up in this region at times, and I'm concerned about the

1 project, the scale and the impact --

2 THE CHAIR: Could you just state your name.

3 MS. STEWART: Jean Stewart. My name is Jean Stewart
4 and I have spent the afternoon up on Kibby Mountain and feel
5 even though it's a working forest, it has great beauty, great
6 vistas, and it's hard to imagine wanting to come up here with
7 the changes that we're told the plan that might unfold.

8 I do feel individuals conserving energy are really
9 initially where we need to address our energy needs as a state,
10 and the future of alternative energy should it be included; but
11 this particular project seems not adequately studied, for one
12 thing, as indicated by the previous speaker, possibly, but I
13 think there's more than just -- you can't put an economic value
14 on some things, and that's where I really speak to at this
15 time.

16 I think we really need to value what is now protected
17 at the higher mountain levels, and I appreciate your hearing us
18 tonight. Thanks.

19 THE CHAIR: Thank you, Jean. David.

20 MR. BRAGDON: Good evening. My name is David
21 Bragdon. I'm the executive director of Energy Matters to
22 Maine, a nonprofit organization focused on lowering electricity
23 costs to Maine consumers and Maine businesses.

24 We believe that a sound energy policy is essential to
25 the State's economic vitality and seeks to provide a voice to

1 the thousands of Maine businesses and consumers who believe
2 that the State's economic future depends upon far-sighted
3 policies that lower energy prices, reduce price volatility, and
4 improve the diversity of energy supplies.

5 We're here today to testify in support of the Kibby
6 project, and we will focus our testimony on the demonstration
7 of need criteria, which we believe this project amply fulfills.

8 Maine's economic development is closely linked to the
9 availability and cost of energy. Energy supply, price, and use
10 powerfully effect the creation of quality jobs and our
11 prospects of long-term economic growth, the vitality of our
12 communities, and our ability to protect the environment.

13 Maine's comparative energy circumstances is poor.
14 Our average electricity costs are among the highest in the
15 nation, and these historically higher prices have cost Maine
16 jobs.

17 The Baldacci administration estimates that -- the
18 administration has described the cost of energy as, "the common
19 thread" in recent mill closures and factory closures across the
20 state of Maine. The state has lost 30,000 manufacturing jobs
21 in the last decade in significant part due to energy supply and
22 price disadvantages. Many high quality jobs remain at risk due
23 to energy crisis.

24 In recent years the State has sought to strengthen
25 economic growth by investing in research and development, but

1 these targeted R & D intensive industries, such as
2 biotechnology, information technology, precision manufacturing,
3 these often are significant consumers.

4 We can and we must diversify the State's economic
5 base, but we cannot escape the conclusion that electricity
6 costs will continue to play a major role in the locational and
7 investment decisions of many business in the new economy, just
8 as they have in many businesses in our traditional
9 natural-resource-based economy.

10 Your decision on this project occurs at a time when
11 policy decisions occurring outside the state, those made by ISO
12 New England and FERC -- will increase the cost of electricity
13 substantially, 25 percent above current levels over the next
14 three years. This increased cost will harm the ability of
15 Maine companies to compete vis-a-vis firms outside the region.

16 Your decision on this project can move Maine's energy
17 policy in the right direction. Approval of this wind project
18 will support efforts to lower energy costs, enhance energy
19 security, and ensure diversity of renewable energy resources.

20 Some opponents of their project have argued that this
21 project is not needed because Maine already generates more
22 electricity than it consumes. The argument is faulty and it
23 neglects the key aspect of Maine's electricity market.

24 Maine has one price advantage compared to other
25 New England states, and it is due to the bottleneck effect.

1 That is, if existing limitations in electricity transmission
2 restrict the amount of electricity that Maine can export to
3 more power hungry, southern New England states.

4 While some consider this bottleneck an obstacle and a
5 reason not to build this wind project, we consider the
6 bottleneck an advantage that provides a modest, but
7 significant, rate advantage for Maine consumers. As long as
8 that bottleneck exists, Maine rate payers will enjoy a
9 comparative price advantage.

10 Additional generation, particularly wind generation,
11 which diversifies our supply and utilizes an emission-free
12 renewable resource makes good sense permitting this project to
13 go forward in the interest of Maine consumers and the Maine
14 economy. You've heard about some of the additional benefits to
15 the project, some of the economic development benefits both
16 during the construction and operational phase.

17 There is one additional economic benefit that I
18 haven't heard mentioned tonight, and that is that compared to
19 other forms of electricity generation, wind power has the added
20 benefit of not incurring highly volatile operating costs, and
21 it is not subject to the price volatility of fossil fuels,
22 particularly natural gas, at a time when oil prices have
23 reached record highs in excess of \$80 per barrel and at a time
24 when natural gas prices have been particularly volatile due to
25 the threat of hurricanes. This benefit for the project is

1 clearly to be welcomed.

2 Price volatility imposes a special threat to the
3 State's economic interests because fuel costs are by far the
4 largest single component of the total cost of natural gas
5 electricity generation.

6 Let me just say, in approving this project, we
7 believe that you will be acting in accordance within existing
8 State policies and State goals concerning both the renewable
9 portfolio standard and the Wind Power Act.

10 We don't believe that this -- that an action on this
11 project today would in fact be putting the cart before the
12 horse. We have a clear state interest in promoting wind
13 resources and diversifying supply. We believe this project
14 clearly would advance an already stated articulated and
15 legislatively approved State goal.

16 We also urge you to give timely consideration to this
17 project. This is a well conceived, carefully planned project
18 where the developers worked hard to identify the best available
19 site and where wind project benefits clearly outweigh the
20 adverse impacts.

21 We want to encourage additional wind power projects
22 in Maine and want developers to approach these projects in the
23 right way. Your timely approval of this project will signify
24 developers that the regulatory process in Maine is not a
25 barrier to well conceived future projects that meet a clearly

1 defined public need.

2 Now, more than ever, the State of Maine needs to
3 support indigenous, cost effective and environmentally sound
4 energy investments. Your vote of approval for this project
5 will promote the State's energy self sufficiency and support
6 long-term economic growth in Maine. Thank you.

7 THE CHAIR: Thank you, David. I have one more person
8 I think on my list. Cecil, are you here, Cecil White.

9 MR. WHITE: Yep. First of all I would like to thank
10 the panel very much and the commissioners --

11 THE CHAIR: Before you start you need to, for the
12 record, just tell us your name.

13 MR. WHITE: My name is Cecil White, I'm a resident
14 from Kingfield, okay. Actually, I've been listening to this
15 public hearing tonight. I guess it's all about who you are so
16 let's get the record straight.

17 I am the fifth generation native to the project that
18 you're talking about. It goes back to my great, great
19 ancestors. My great, great grandfather founded the first
20 insurance company and built the first structure in Kingfield
21 and also in the town of Eustis. So if it's who you are, I'm
22 it, okay.

23 Now, let's get real. All of this stuff I've heard
24 tonight, they were all blessed to come to Maine and build their
25 camps and have all their good stuff, great. It's helped the

1 state -- take it from an educated young man like me that has
2 worked many shutdowns, my dad built the Flagstaff Dam, my
3 family built these roads so these people can go through, and I
4 am the one that has been around the world working at different
5 energy facilities, and I'm here to tell you that if someone
6 shows me something better right now than the wind power today,
7 it does about 2 percent of the energy in the United States,
8 okay, great, well, it's going to get better.

9 I've worked in hydros, I helped build the Stratton
10 system. Nobody wanted it. They all thought it was going to be
11 terrible. Well that town's doing just fine, and it's one of
12 the best systems going on the east coast just in case anybody
13 wants to know.

14 This project is only the beginning of the energy
15 problems in the United States. Now, as a native boy from here,
16 I'm here to tell you, you know, we've got to start to be
17 responsible and look at this energy.

18 TransCanada, Maine Power, always struck me that
19 they're putting their best foot forward to come up with a
20 solution. Pros and cons, pros and cons. We're always going to
21 have somebody who will lobby it and say no.

22 Well, I'm the one that's got to sit down and tell all
23 the ancestors of the area that built all this stuff for you
24 folks that it's going to be okay, things are going to get
25 better. I'm the one that's watched all the businesses close in

1 Maine. I'm watching all the kids have to leave Maine to be
2 successful, and I'm a workplace supervisor and have been for
3 the last 20 years. If anybody cares about these kids, I care.

4 I approve this energy plant, my ancestors would sit
5 at the table like they did when they were talking about
6 flooding the town that my family moved out of.

7 My mother was born in Dead River. My father was born
8 in Stratton. It goes back to my great, great, great
9 grandparents, okay.

10 You think I like the looks of -- I've actually
11 installed these things. I've been out west. I've got to tell
12 you right now, they're not pretty but they're effective. The
13 wind rime system that we are blessed with up here, the geese
14 and stuff are not flying -- I'm hear to tell you, take it from
15 a boy that hunts it every day.

16 I walk, I live, my whole life is here, and I'll tell
17 you that those birds have a better flight plan. They're very
18 intelligent. They're not going to go in the 40-mile plus wind,
19 it's going to be okay.

20 So I strongly am for it, for any clean energy,
21 because right now this is the real scenario. Twelve more years
22 natural gas is going to kill everybody. You think gas is the
23 problem now, give it six more years, mark my words on the book
24 today, that the little resident boy told you what's going to
25 take place.

1 Coal, these people are looking, in the United States,
2 to bring back coal. Do we want to be breathing that stuff
3 again? You know, we've worked so hard and lobbied ourselves to
4 get to where we are to stay clean, clean, clean, better,
5 better, it's okay, I need that check, you know what I mean?
6 Somebody's got to come up, that's great.

7 Well, take it from a resident that cares about the
8 world today, and we need to start saying -- sometime we are
9 going to put our foot down, and someone's going to say, listen,
10 this is what's going to happen, and I'm a local boy that's
11 going to tell you that if we keep knocking these projects down,
12 you're going to regret it ten years from now.

13 I want to thank the team for coming up here for the
14 public hearing because I've heard an awful lot tonight. All
15 this stuff has been done right, the commissioners and stuff
16 have worked very hard in this state. All these towns have had
17 all these residents -- have been allowed to go to these meeting
18 and it's true. A lot of them sit on the couch and mull about
19 it.

20 I'm here to tell you that we're going to do this
21 eventually, you can count on it, and I thank you very much for
22 your time.

23 THE CHAIR: Thank you, Cecil.

24 PARTICIPANT: Sidney Shane has left. He'd like to
25 speak tomorrow.

1 THE CHAIR: That's fine.

2 MR. CAMPBELL: My name is Cap Campbell, I'm the
3 president of the Arnold Trail Snowmobile Club, I'm a resident
4 of Jim Pond Township, I live on Greenbush Pond, and I'm there
5 for a good 75 percent of the time. I've been there for years.
6 I'm also a doctor in environmental science at Unity College,
7 past chairman of the board.

8 I'm all for renewable energy. We've heard all those
9 arguments tonight. I don't think there's any question that we
10 do need that kind of thing, so I'm not going to go into that.

11 But as a resident and looking at the boundary
12 mountains every day out my bedroom window, I do not object in
13 any way, shape, or form to this project. It's something that
14 we have to do.

15 I live right there and I'm going to live with it. I
16 went to Mars Hill twice, stood in the middle of town and
17 listened for noise, couldn't hear any. Talked to people on the
18 street and satisfied myself that I'm not going to be having a
19 problem.

20 Also, just to add to that, we have no objections in
21 the snowmobile club. We don't necessarily support the project
22 or not support the project, but it does not interfere with
23 anything that we do in the area. Thank you.

24 THE CHAIR: Thank you very much. I don't think
25 anybody else wants to speak, and if they do they can come back

1 tomorrow night. We'll be here tomorrow night for another
2 public session.

3 We'll be here at 6 o'clock tomorrow night and we will
4 be continuing the testimony of intervenors in this project and
5 government agencies tomorrow morning at 8:30, so if any of you
6 who wish to come back, we certainly welcome you to come back
7 tomorrow and hear some more of the details. Thank you.

8 * * * * *

9 (The hearing was suspended on October 2, 2007 at
10 8:43 p.m.)

11 * * * * *

12 (The hearing resumed on October 3, 2007 at 8:44 a.m.)

13 * * * * *

14 THE CHAIR: Good morning. I guess we better get
15 going. I don't have any opening statement this morning. I
16 think I've read that into the record enough.

17 Do we have any housekeeping matters that the parties
18 would like to raise with us before we begin?

19 MS. BROWNE: Chairman Harvey, I just wanted to be
20 clear on the record that I'd like to reserve the opportunity to
21 do some brief rebuttal. I don't know whether I'll need to, but
22 depending on what occurs today, I'd just like to put that on
23 the record.

24 THE CHAIR: Okay, that's fine.

25 MS. BROWNE: There are other housekeeping matters for

1 post hearing. I don't know if you want to do that now or at
2 lunchtime.

3 THE CHAIR: We'll take care of it now, I guess.
4 There was a question of the filing of the -- for the record
5 that closing that I guess you and Amy and Pam had discussed the
6 idea of one filing as we did in the Black Nubble case. I don't
7 have any problem with that. If you people are all in agreement
8 of making one filing, I guess that makes all of our lives a
9 little simpler.

10 MS. BROWNE: That seemed to make sense on our end as
11 well.

12 THE CHAIR: I don't remember the exact date, but I'll
13 read that into the record when we finish today.

14 Are there any other intervenors who are going to have
15 a problem with that? You understand what we just said? I
16 think it's the same process we followed at Black Nubble. We're
17 going to have one filing at the end and that will be it.

18 MS. BROWNE: Just to be clear, that's for the
19 parties, the public comment period?

20 THE CHAIR: Right, the public comment, obviously, has
21 the double dates on it, and we'll read that into the record at
22 the end.

23 My understanding is everybody's comfortable with the
24 30 days after the close of the record for the findings of fact
25 that all of parties can provide if they wish.

1 MS. BROWNE: We would certainly prefer sooner, but I
2 understand the time constraints, so 30 days is fine.

3 THE CHAIR: I think 30 days is appropriate. It's
4 what we'll deal with. You're free to submit.

5 MS. BROWNE: The other thing that we talked about was
6 that we were assuming that the Commission would deliberate
7 between the proposed findings of fact without a staff
8 recommendation, so we just thought we should probably talk
9 about that.

10 We had both assumed that to be the case. It seems to
11 make sense just given that the Commission is going to have the
12 benefit of the proposed findings of fact.

13 THE CHAIR: We didn't talk about that yesterday, but
14 I don't -- I don't particularly have a problem with that. If
15 you're all comfortable with it, I am.

16 So in that case, we will -- we will review your
17 findings of fact, obviously, and we will deliberate on them.

18 MS. PRODAN: That's fine with us, too.

19 THE CHAIR: Any of the other intervenors want to
20 comment on that?

21 Okay.

22 MS. PRODAN: Friends of the Boundary Mountains also
23 would like to reserve rebuttal time. We don't anticipate
24 needing it.

25 THE CHAIR: I assumed that that was the case. Any

1 other questions?

2 MS. BROWNE: Probably at the end of this morning, we
3 have just additional exhibits to make sure we get into the
4 record, but I don't think we need to do that right now.

5 THE CHAIR: Okay. Amy, have I covered your
6 checklist? Thank you.

7 In that case, I think if I've got my schedule
8 correctly it's Friends of the Boundary Mountains' opportunity
9 for their direct, and if you folks want to come right down
10 front and we'll begin.

11 I'm just going to reintroduce the Commission so that
12 will be in the record.

13 Commission members present today are Gwen Hilton, Ed
14 Laverty, Bart Harvey, Steve Wight, Rebecca Kurtz. Sorry,
15 Steve, I didn't see you beyond Ed there. I was going to ask
16 where did Steve go, so my apologies.

17 Staff present today are Catherine Carroll, the
18 director; Diane McKenzie; and Melissa Macaluso, and I believe
19 that's it. Okay.

20 So I think we're ready to go whenever.

21 MR. KIMBER: Chairman Harvey, members of the
22 Commission, thank you for this opportunity to make an opening
23 statement on behalf of Friends of the Boundary Mountains.

24 We urge the Commission to deny rezoning application
25 ZP 709.

1 THE CHAIR: Excuse me, is it Mr. Kimber?

2 MR. KIMBER: I'm sorry, yes.

3 THE CHAIR: You need to tell us your name just for
4 the record.

5 MR. KIMBER: Robert Kimber, and I'm from Temple,
6 Maine.

7 We urge the Commission to deny rezoning application
8 ZP 709 because we believe development of the project -- if this
9 rezoning were allowed, is not in the best interest of LURC's
10 jurisdiction or the people of Maine. I'd like to make three
11 points in support of this position.

12 First, the historical context in which this proposal
13 comes before the Commission is crucial. As a comprehensive
14 land use plan writing notes, "fragmentation of ownership and
15 associated changes in use and management threaten to underline
16 the integrity of the forest resources in a way that compromises
17 the values of the jurisdiction."

18 Those associated changes in use and management
19 translated into one word add up to development, and it is
20 current development pressure -- both residential and
21 industrial -- that threaten to alter the remote and relatively
22 underdeveloped nature of the jurisdiction.

23 A couple of maps we have here, LURC approved new
24 dwellings in 1971 to 2005, and after that development permitted
25 dated March 7th, 2007 illustrates how liberally peppered with

1 dwellings and development the entire jurisdiction already is.

2 Though interestingly enough, Kibby and Skinner
3 Townships, where the Kibby wind power project is proposed, and
4 the adjoining townships to the east show next to no development
5 activity making them excellent candidates for remaining remote
6 and undeveloped.

7 If the jurisdiction is to remain intact then, and if
8 its primary values of recreational opportunities, high value
9 natural resources, and features and remoteness are not to be
10 incrementally nibbled away, we here in Maine need to guard our
11 semi wildlands with special diligence.

12 Second, the CLUP stresses remoteness and undeveloped
13 qualities not only for the present value but also with an eye
14 toward the future. It's a quote again from the CLUP, "As other
15 recreational lands are increasingly developed, opportunities
16 for back country experience will become scarcer and the remote
17 values of the jurisdiction will become even more highly
18 prized."

19 This prediction would appear to have special
20 applicability to mountains. The CLUP subsection on mountain
21 resources, that's Pages 58 through 60, counts among Maine's
22 "recreational resources that are unparalleled in the eastern
23 United States in terms of abundance, diversity, and uniqueness.
24 Approximately 100 mountain peaks over 3000 feet high, including
25 the Bigelow Range and Saddleback Mountain."

1 One hundred might seem to be a lot, but the first
2 sentence of this section says just the opposite, "Mountains and
3 the scenic natural recreational, economic, and other values
4 they posses are a limited resource in Maine. Consequently,
5 proposed uses of mountain areas must be carefully evaluated to
6 ensure that important values associated with these areas will
7 be preserved for this and future generations."

8 These pages in the CLUP are particularly relevant to
9 the present rezoning application because the petitioner has
10 made a point of separating the 4000-foot mountains along the
11 Appalachian Trail from those of the boundary mountains region
12 and assigning a considerably lower value to the latter.
13 Because they are slightly lower than the 4000-footers, because
14 they lack an established trail network, and because right now
15 they receive less recreational use.

16 The authors of the CLUP did not make that
17 distinction, but instead, considered all of Maine's mountains
18 above 3000 feet among the state's unparalleled recreational
19 resources. I agree. And in my prefiled testimony I argue that
20 it is precisely the concentration of these mountains in the
21 northern tiers of Somerset, Franklin, and Oxford Counties that
22 makes this region a resource of statewide significance right
23 now and it will make it increasingly valuable in years to come.

24 Among the points the CLUP notes as problematic about
25 wind power development in mountain areas are "Visual impacts.

1 Turbines and power lines sited on mountaintops and ridgelines
2 have the potential to be visible from long distances away."

3 This is why protection for mountains cannot be
4 piecemeal. A mountain or two here, a mountain or two there,
5 but should be on the landscape scale. The setting is as
6 important as the prominent peaks in it.

7 I've already touched on my third and last point in
8 the proceeding through power graphs, and that point is what I
9 see as the petitioner's consistent undervaluing of the boundary
10 mountains and the Kibby Mountain and of the Kibby Range in
11 particular.

12 If the argument goes, the project area is not remote
13 and has either no or very limited scenic or recreational value,
14 then it does not qualify for the protection the law affords
15 these values. I've addressed this argument in considerable
16 detail in my prefiled testimony and rebuttal testimony. I will
17 not revisit those discussion here but will just mention a
18 couple of salient points.

19 On remoteness. By any definition of remote in the
20 CLUP and in the Commission's rules and regulations, the site of
21 the proposed project qualifies as remote. The concept of
22 remoteness is flexible to allow the Commission to protect
23 remote values which can, and often are, located even in fringe
24 townships.

25 Scenic values. The view from Kibby Mountain rivals

1 those from any of the region's highest peaks. The Appalachian
2 Mountain Club's Maine Mountain Guide describes it in glowing
3 terms.

4 "This remote mountain is in the heart of the
5 wilderness area, north of Flagstaff Lake, east of Chain of
6 Ponds, and south of the Canadian Atlantic Railroad running
7 through Lac Megantic and Jackman. There is an old Maine Forest
8 Service fire tower stand with outstanding, extensive views of
9 the surrounding wilderness."

10 The view onto Kibby Mountain and Kibby Range from
11 important outlooks in the region is presently one of an
12 undeveloped mountain and forest landscape. The proposed
13 project would change that dramatically.

14 Recreational and natural character values. The
15 Northern Forest Alliance has identified the western mountains'
16 wild land as one of the five wild land areas in Maine deserving
17 special conservation consideration and has singled out Kibby
18 Mountain and the Kibby Range as special features of the area.

19 An inventory and ranking of the key resources of the
20 northern forest lands of Vermont, New Hampshire, and Maine
21 published in September 1993 and written by staff members of the
22 Audubon Society of New Hampshire, the Appalachian Mountain
23 Club, and the Maine Audubon Society rated an area designated
24 P-1-B, which includes the boundary mountains, very high for its
25 physical resources, that is, lakes, mountains, and rivers.

1 And the quote there, "70 percent of the townships in
2 the area received points for mountains, though none of the
3 mountains are over 4000 feet."

4 In short, the conservation values of the boundary
5 mountains, and Kibby Mountain, and the Kibby Range have been
6 apparent to a number of people for a long time and not just to
7 members of the Friends of the Boundary Mountains.

8 These three points summarize the arguments my
9 prefilled testimony covers. In closing I would cite the CLUP
10 once more and add a couple of personal comments.

11 Despite -- this is from the CLUP -- despite the signs
12 of human activity evident in settlements, logging roads,
13 harvested areas, and skid trails, the natural world remains the
14 dominant presence here. This is in the jurisdiction." That's
15 the end of the quote.

16 There is no other 10.4-million-acre block of land
17 east of the Mississippi River of which that can be said. That
18 vast undeveloped breach of land is truly a unique resort. And
19 while the CLUP makes allowance for many kinds of human
20 interventions in the jurisdiction and aims for the balance
21 between utilization of resources and conflicting public values,
22 there is one major theme woven into that text and that theme is
23 to protect the integrity of those 10.4 million acres to see
24 that the natural world remains the dominant presence throughout
25 Maine's wild land.

1 This proposed project is totally at odds with that
2 principle. If you introduce into what is now a region with
3 virtually no permanent structures, machines that would tower
4 above the treetops and extend from the northern to the southern
5 boundary of Kibby Township, not to mention the 27-mile
6 transmission line from the project site to Stratton, that would
7 be development and land conversion on an unprecedented scale.

8 In terms of costs and the benefits in the public
9 interest, the project simply cannot pass muster. Maine is
10 being asked to make a major sacrifice of its mountains and
11 forest landscape for which neither Maine nor the region nor the
12 nation nor the global community will receive benefits in
13 renewable energy or pollution avoidance in any way proportional
14 to that sacrifice.

15 That is the crux of the matter before the Commission.
16 Both the laws of Maine and the extraordinary development
17 pressures that threaten the integrity of the jurisdiction speak
18 for the protection of Kibby Mountain and the Kibby Range, and I
19 respectfully urge the Commission to deny rezoning application
20 ZP 709.

21 Thank you for your attention and your consideration,
22 your patience. You make Jobe look like a piper.

23 MR. WILSON: Good morning, Chairman Harvey, LURC
24 commissioners. My name is Herb Wilson and I am speaking to you
25 today on the part of the Friends of the Boundary Mountains as

1 well. I am a professor of biology at Colby College, and my
2 particular specialty is ornithology. So I'm going to be
3 speaking to you today about our avian fauna, in particular. We
4 enjoy the sounds of birds as they sing, but they can't
5 represent themselves at these sorts of hearings, so I consider
6 that my job today.

7 What I want to do today is to give some of the
8 highlights of my prefiled testimony. I won't go through all of
9 it. Some of it is rather detailed, but I want to go through
10 essentially two different aspects of that testimony: One is
11 questions about the adequacy of the avian data, and secondly
12 about the interpretations of the data and the fact that the
13 data perhaps haven't been considered enough to develop some
14 sort of protocol to assess what the likely avian mortality is
15 going to be as a function of these turbines.

16 We'll start with discussion of the adequacy of the
17 avian abundance. I'm going to talk about just two particular
18 aspects that are in my prefiled testimony.

19 One is in the spring of 2006 a foraging study was
20 done in late May, and one of the birds that we have in Maine,
21 they're very widely distributed, the Red-eyed Vireo is here, in
22 fact it's one of the most widely distributed songbirds in North
23 America. Some argue that it may be the most woodland songbird
24 in North America. You can see that it extends all throughout
25 Maine up into New Brunswick and the Maritimes, and so forth.

1 Oddly enough, in the data that were presented in the
2 2006 foraging report, Red-eyed Vireo was not listed, but this
3 bird was, the golden-winged warbler, which is extraordinarily
4 rare in Maine. If you take a look at its breeding
5 distribution, you see that it's mostly a Midwestern bird --
6 Ohio Valley and so forth -- barely extending up into southern
7 New England, and yet one of these was reported on that
8 particular study.

9 Secondly, the Connecticut warbler, one was reported
10 here as well. If you take a look at the Connecticut warbler's
11 breeding distribution, it's essentially throughout -- from
12 Minnesota, it's probably the hottest spot for them, but they
13 extend throughout the middle of northern North America.

14 During their spring migration, what these birds do is
15 they come up through the Gulf of Mexico, come up through the
16 Mississippi Valley flyway, and then disburse east and west.

17 In the fall we occasionally see them because they
18 do -- some of them do adopt a coastal route to head back down
19 to South America where they winter. But there are only three
20 known records of Connecticut warbler in the spring in Maine,
21 and yet here we have the Connecticut warbler found, a
22 golden-winged warbler found. But Red-eyed Vireo was not found.
23 So one can't help but have questions about the quality of the
24 data when one of the most common birds is missing and two
25 extraordinarily rare birds have been sighted.

1 The second bit of avian data I want to talk about are
2 the hawk -- the daytime hawk censuses that were done, and the
3 way the data were taken is that people went out in three-day
4 blocks and they looked at when the weather systems were going
5 to be favorable for hawk migration, and in particular in the
6 fall we know that northwest winds tend to push birds south, and
7 that's a great a time to look for migration. In fact, that's
8 when you would expect to see most migrants.

9 But in fact, there was a fair amount of September
10 when there were no censuses done at all. Also we know that
11 migration extends well into October, and there were no October
12 censuses done either.

13 Just as an example, let's take a look at some data
14 from another hawk watch. This is in Duluth, Minnesota for
15 September. What you can see is that in every day of the month
16 there were at least a few hawks found, some very low -- like
17 this was only four. There are a few days, like this one here,
18 21,000 hawks found, another 6100 hawks found here, all the
19 different species are listed there. You'll notice that the
20 winds can be from any direction and you can still get some hawk
21 migration.

22 My point here is that the number of hawks that are
23 passing over the proposed turbine area are certainly
24 underestimated. We don't know by how much but certainly the
25 values that are given are not a true representation of all the

1 hawks that migrate over Kibby and Kibby Ridge.

2 Then I want to talk about some unconsidered issues,
3 ways where some data were taken and where I think the data
4 simply weren't taken far enough.

5 I'd like to reference a comment from Ms. Gresock
6 yesterday who was asked in response, I think, to one of the
7 LURC commissioners about the difference between the Kenetech
8 data and the TransCanada data, and Lynn made the point that for
9 the more recent data, that altitude data could be given and
10 that's absolutely true and that's a real significant change
11 over the two.

12 But one of the problems that we have with migration
13 in particular are these towers. The birds get confused by
14 lighted towers. This confusion tends to take place much more
15 so when the weather is inclement, when we have lots of clouds,
16 when the moon is not out, the birds get confused by lights that
17 would appear, as an example, on the lighted turbines.

18 It doesn't matter really how high the birds are at
19 that point. What they're going to do is to hone in on the
20 light, confusing it perhaps with the moon or perhaps with some
21 star, and what they end up doing is either flying into the
22 tower or they end up circling the tower in confusion until they
23 simply die from exhaustion or fall from exhaustion.

24 So these are problems that really weren't considered
25 at all in any of the TransCanada material that I could find.

1 The point here is that we're not looking at a slow
2 chronic mortality of birds here, that these are episodic
3 events. It means a particular situation has to arise, but when
4 those situations do arise, they indeed are horrible nights for
5 birds.

6 Just as an example, here are three tower kills that
7 took place during inclement weather, one in central Florida,
8 one in Tallahassee, and one in western Kansas, and look at the
9 amount of mortality there, 10,00 birds, mostly Lapland
10 Longspurs killed in western Kansas, 4000 birds of a number of
11 species killed during October migration in Tallahassee.

12 So this is a concern for avian mortality that these
13 extraordinarily, extraordinary perhaps, but yet terrible events
14 can happen and the question is what does TransCanada propose to
15 do about that. How do they propose to ameliorate these sorts
16 of effects.

17 Secondly, we know that there's going to be a large
18 power corridor built throughout 26.5 miles or so, built through
19 the area, and this in fact represents a significant
20 fragmentation of habitat.

21 We know that these represent serious impediments for
22 lots of birds. Birds will not cross over. Even a road 22 feet
23 long can often be a barrier to bird movement. But this also
24 represents a significant barrier to small mammals, to many
25 amphibians, and perhaps to reptiles as well. So the effects of

1 fragmenting the habitat by this corridor were not considered
2 and I think should have been.

3 Finally, what I want to talk about is the actual
4 avian mortality from colliding with turbines. What we know is
5 that not all birds are going to -- are going to -- that come
6 down below the level of the turbine are going to encounter the
7 turbines, but still, the fact of the matter is that 14 to 18
8 percent of all of the nocturnal radar images that were found
9 well below level of the target, of the turbine.

10 TransCanada tends to say that the majority of birds
11 are above, but 14 to 18 percent is a significant number of
12 birds that are at risk to the rotating turbines it seems to me.
13 Virtually one in six birds has the chance, at least, of coming
14 within a rotor area and being killed by the collision of birds.

15 So this is a concern for me. I think there is
16 significant risk here.

17 But the problem that I have really with the
18 TransCanada analysis is that I think that there were three
19 steps that should have been taken to really convince us that
20 they're serious about trying to minimize avian mortality.

21 The first is, you have to identify the abundance of
22 the birds, and they've done a good job with the radar data. We
23 know roughly what the number of birds that come through during
24 migration are, we know that about a fifth or sixth of them are
25 in fact below the level of the turbines.

1 Then, it seems to me that the next step is to assess
2 what is the likely mortality of birds going to be given those
3 sorts of rates of movement.

4 And Ms. Gresock referred yesterday to a recent paper
5 that was published by the National Academy of Sciences by their
6 arm of the National Research Council where they compiled data
7 of avian mortality at a number of different turbine sites, and
8 the average seems to be around 4, 4.25 birds per turbine per
9 year.

10 But we know there are instances where mortality is
11 much greater. As an example, I'll give you from last year
12 40-turbine area in New York resulting in the mortality of 2000
13 birds. That's 50 birds per turbine per year rather than the
14 four that is typical. So we don't know for sure but at least
15 we have a ballpark to gauge what is the likelihood of bird
16 mortality from each turbine.

17 Then the next step is to actually monitor what
18 happens, because as in the case of that New York site, the
19 mortality is far greater than might have been predicted.

20 So it seems to me that an environmentally responsible
21 way to deal with the avian mortality would be not to go
22 headlong into building 44 turbines at once but rather to build
23 one or a few and see actually what happens to the bird
24 mortality there. And then if it's the low and acceptable
25 method, whatever that happens to be, then continue on with the

1 project from the point of view of the birds, but if not, then
2 the project needs to be discontinued in my view.

3 TransCanada's idea is to establish a post
4 construction monitoring program, and they indicate that they
5 will work in concert with the IF & W and perhaps Maine Audubon
6 and other conservation organizations, but it seems to me that
7 in sense what we have here is the fox in charge of the hen
8 house.

9 I don't see any evidence that TransCanada is willing
10 to shut down the project. Interestingly, two comments were
11 made yesterday, one was Cinnamon responded to -- someone asked
12 about avian mortality and her comment was in the case of an
13 avian mortality event, that it would be an educational
14 experience, not we should shut the turbines down, but it would
15 be an educational experience.

16 And Ms. Gresock was responding to questions about
17 avian mortality used the words "monitor" and "assess," but it
18 seems to me that what we need is some sort of actual value,
19 some sort of level of acceptable avian mortality that needs to
20 be specified, and if that avian mortality is exceeded, then
21 something needs to be done. One of the things that could be
22 done is shut down the turbine or not build the particular
23 turbines in particular areas if they prove to be too
24 detrimental to avian life.

25 I'm going to back up here before I show that last

1 slide.

2 I did want to comment on one other aspect.

3 Ms. Gresock yesterday cited me saying that bat mortality was
4 more of a concern than bird mortality, and in fact that is true
5 in part. I don't tend to worry so much about bat mortality
6 here because it's pretty evident that the number of bats that
7 are passing across Kibby are in fact quite limited.

8 But we do know from work that's being done by Rhonda
9 Milliken, who is a physicist in Canada who has started a
10 business to assess the impact of turbines and to advise on the
11 proper placement of turbines, what she has shown is that a bat
12 is about five times as likely to collide with a turbine blade
13 as a bird, that bats get very much confused because of their
14 echolocation mechanism of navigating. They get confused by the
15 spinning blades and they tend to go right into the blades and
16 get killed.

17 Birds, on the other hand, are able to avoid spinning
18 turbine blades some of the time, but what Milliken was able to
19 show is in fact that there were three types of habitats where
20 the birds were less capable of changing their trajectory to
21 turbine blades. These were along riparian valleys, along steep
22 gullies where the birds were constrained by steep sides, and
23 thirdly, along ridge tops.

24 So it's along ridge tops that even though the birds
25 have been known to be able to avoid turbines that it's along

1 testified, that Red-eyed Vireos are common species and you
2 would have expected to have seen those, that in fact I
3 believe it's your testimony that they were not identified;
4 is that correct?

5 A. They were identified in some of the studies but in the
6 2006 foraging study, the only Vireo reported was
7 blue-headed.

8 Q. Well, I think in your prefiled testimony you stated that
9 they weren't identified at all, correct? I'll direct you
10 to Page 2 --

11 A. Okay.

12 Q. -- of your prefiled testimony and you said, the species
13 regarding by some ornithologists is the most abundant song
14 bird in North America was found in the Kenetech 1992
15 study.

16 A. Yes.

17 Q. I have found Red-eyed Vireos up to heights of 3000 feet in
18 Maine. I expect that the TRC biologists were not able to
19 distinguish the songs of Red-eyed Vireos and blue-eyed
20 Vireos.

21 That was your testimony; correct?

22 A. That is correct, I've -- I failed to indicate that I was
23 referring simply to that 2006 daytime foraging study.

24 Q. But in fact, just so that the record is clear here, in
25 fact the TRC did identify Red-eyed Vireos during their --

1 A. But not during the particular survey when the Connecticut
2 warbler and golden-winged warbler were found.

3 Q. Let's talk about the golden-winged warbler and the
4 Connecticut warbler.

5 Again, I think that you testified that the
6 Connecticut warbler you thought was a mistaken sighting by
7 the field personnel; correct?

8 A. I think it requires a very high level of -- yes, I think
9 it requires a very high level of detail to confirm that.
10 I would not be convinced of that without a photograph or a
11 recording.

12 Q. Were you aware that in fact that sighting was by -- that
13 after that sighting TRC followed up about IF & W -- Fish
14 and Wildlife -- and other known Maine birding experts to
15 confirm the validity of that sighting?

16 A. I understand that they corresponded with them; my
17 understanding is that no one was able to confirm it.

18 Q. Are you aware that the person that saw that bird was
19 somebody from Biodiversity Research Institute?

20 A. I was not aware; it was not obvious from the report who
21 the actual biologists were.

22 Q. You understand now --

23 A. I do.

24 Q. -- it was somebody from Biodiversity --

25 A. I do.

1 Q. -- Research Institute?

2 You understand now that that was somebody with
3 substantial experience who's done a significant amount of
4 work with that particular species; correct?

5 A. I'm not aware of that.

6 Q. Is Biodiversity Research Institute an organization that
7 you're familiar with?

8 A. I don't know much about them. I know that they maintain
9 an eagle camera, that's how I know them mostly. I don't
10 know much about their work.

11 Q. Then the golden-winged warbler --

12 A. Yes, indeed.

13 Q. -- I think that you also, in your prefiled testimony,
14 stated that that was another example of an error in the
15 fieldwork that was undertaken; correct?

16 A. I was skeptical of it, yes.

17 Q. I think in fact your prefiled testimony said that one of
18 the reasons you were skeptical of it was because they are
19 rare?

20 A. Yes.

21 Q. And that the "alpine habitat sampled was not typical for
22 that species"; correct?

23 A. Yes.

24 Q. Are you aware in fact that there's no alpine habitat --

25 A. Yes. That was a mistake on my part. It should have said

1 no mountainous terrain, yes.

2 Q. Are you also aware that that specific sighting was in the
3 valley in a deciduous shrub area?

4 A. I was not.

5 Q. So you would agree that would make it a potentially more
6 appropriate sighting?

7 A. That's more appropriate habitat, still pretty far north
8 for where we would expect that species to occur.

9 Q. But that's not what you said in your prefiled testimony;
10 correct?

11 A. I'll have to look at my prefiled testimony.

12 Q. That's okay. I appreciate that -- I assume you're
13 participating as a volunteer with Friends of the Boundary
14 Mountains?

15 A. Yes, this is entirely done without any pay.

16 Q. I completely appreciate that, and I also appreciate that
17 there's a lot of information here. This notebook here is
18 just the avian studies.

19 So one of the concerns I have, quite frankly, is that
20 you may not have had an opportunity to fully digest
21 everything that was in this notebook when you prepared
22 your prefiled testimony and your testimony here today?

23 A. I think I read through all of the avian material. There's
24 an awful lot of redundancy, so there may be points that I
25 missed.

1 I did my best to read through not only all of the
2 avian reports but also the mammal reports as well.

3 Q. You can appreciate that TRC and people like Dana Valleau
4 have spent hundreds and hundreds of hours in the field
5 analyzing and collecting this data; correct?

6 A. I certainly appreciate that, yes.

7 Q. Significantly more -- and this is not a criticism -- but
8 significantly more time than you've been able to spend
9 parsing through this data?

10 A. Certainly.

11 Q. And I think one of the other items you pointed out in your
12 prefiled testimony was that the -- and this was another
13 criticism and one of the reasons, I think, that led you to
14 conclude that you had concerns about the accuracy and
15 sufficiency of the data -- was that the length of the
16 transect in the fall and spring time foraging report was
17 not provided; correct?

18 A. I said that. This boils down -- I appreciate the rebuttal
19 testimony. This boiled down to the fact that the protocol
20 for how this was done came in a separate document than the
21 actual data in which the data were presented, so I wasn't
22 able to find it where the data were presented, so that was
23 the cause for my confusion there.

24 So it was voluminous material that got me there.

25 Q. Again, I appreciate it but I think it's important for the

1 Commission to appreciate that many of the items that
2 you've identified in your prefiled testimony resulted from
3 your inability to find the information that was there;
4 correct?

5 A. That's why I stressed in my discussion most of the things
6 I felt more strongly about.

7 Q. Thank you, I appreciate that.

8 I want to talk for a minute about the hawk surveys,
9 which you also criticized the sufficiency of what was done
10 by TransCanada with respect to those surveys; correct?

11 A. Yes, indeed.

12 Q. And I think you criticized the number of days of surveys
13 that were conducted; correct?

14 A. Right.

15 Q. Bear with me, I am not a bird expert. But as I understand
16 it, you would agree that if you want to -- you want to try
17 to identify the days when you're likely to have the
18 greatest number of raptors migrating, that would be the
19 most conservative approach to doing a bird survey;
20 correct?

21 A. Yes, I think that's what I tried to indicate in my
22 comments just a moment ago that you want to try -- most of
23 the birds in the short order of time, you pick the best
24 weather days, but that doesn't mean you're going to get
25 all the hawks that way.

1 The point is not that the majority of birds were not
2 sampled, it's that all of the birds were not sampled.

3 Q. But there was no suggestion in these reports for any of
4 the surveys that you have identified all birds that are
5 passing through the project area.

6 The purpose is to try to identify passage rate and
7 get a sense of the relative number of birds that are
8 passing through; correct?

9 A. I'm not sure that's -- I'm not sure that's what the goal
10 was, frankly.

11 Q. Well, you would agree that the days that we sampled for
12 surveys were the days when you're most likely to have the
13 highest number of hawks?

14 A. Absolutely.

15 Q. Thank you. You also put up a slide on tower kills -- I
16 won't put it back up again, it's a little bit small but
17 bear with me here -- as an indication to the risk of birds
18 presented by turbines, and these tower kills, I think the
19 mortality event for one was 1592 birds?

20 A. Yes, that would have been a single night; right.

21 Q. A single night. The second was 4000 birds; correct?

22 A. Right.

23 Q. The third was 10,000 birds; correct?

24 A. Right.

25 Q. None of those were from wind turbines; correct?

1 A. They were lighted towers.

2 Q. None were wind turbines; correct?

3 A. That is correct; but my understanding that all the
4 turbines, because they're over 400 feet high, must be
5 lighted.

6 Q. Well, in fact, actually, are you aware of what the
7 lighting plan is for these turbines?

8 A. I'm not aware, no.

9 Q. Just for your benefit not all of the turbines will be lit,
10 and under current FAA guides, they're not all required to
11 be lit.

12 So your chart of tower kills doesn't purport to
13 suggest that those mortality events resulted from wind
14 turbines?

15 A. They purport -- I purport that they result from a lighted
16 tower regardless of what that tower is going to be.

17 MS. PRODAN: Could I ask that the questions be
18 phrased as questions and not statements? Thank you.

19 MS. BROWNE: Thanks.

20 BY MS. BROWNE:

21 Q. You also in your testimony said that the --

22 I think what I heard you say was -- the average mortality
23 for wind turbines is 4 to 4.25 per turbine per year?

24 A. That's what the National Research Council report gave,
25 yes.

1 Q. Could you give some reference for that, because it's
2 significantly higher than any of the numbers I'm familiar
3 with.

4 A. I have a .pdf I can give you after this is over if you'd
5 like.

6 Q. What did you say the source of it was?

7 A. The National Academy of Science has a research arm called
8 the National Research Council that independently collect
9 data on all sorts of things, and they published their
10 report. I think it was May of '07. It was published this
11 year.

12 Q. Thank you. And trying to put the risks that you see here
13 to birds and bats, or I guess your testimony, the
14 principal concern was birds at this site; right?

15 A. Yeah, we know that bats have a higher risk at a turbine
16 but the number of bats using the area clearly is very
17 small.

18 Q. Are you aware of the National Academy of Sciences
19 publication on the environmental impacts of wind energy
20 projects?

21 A. I don't know that I've seen that particular document.

22 Q. Are you aware of the Erickson data that gives information
23 on mortality events associated with bird mortality
24 associated with other structures?

25 A. No, I'm not.

1 Q. Are you aware that collisions with buildings kill, as the
2 National Academy of Sciences reports, collisions with
3 buildings kill 97- to 976 million birds annually?

4 A. I'm not surprised at that number. I know it's huge.

5 Q. And that collisions with communication towers, which I
6 think are probably the towers that you were referring to
7 in your testimony, kill between 4 and 5 million based on
8 conservative estimates but could be as high as 50 million?

9 A. Yes.

10 Q. Cars kill 80 million birds a year?

11 A. Okay.

12 Q. When you talk about the risks, your concern about avian
13 risks, and you talk about the need to -- I think what you
14 suggested was putting up a few turbines, seeing what the
15 impacts are, and then putting up the rest of the project.

16 Are you aware of any other wind power project that
17 has had to proceed in that type of fashion?

18 A. No, but that seems to be irrelevant to me. It seems to me
19 that wind powers need to be sited in proper places, and if
20 the stipulations had been more lenient in the past, it
21 doesn't mean that we should continue to do so.

22 It's obvious that there are instances where
23 significant avian mortality can occur at a wind farm, and
24 it seems to me that we need to be stringent about siting
25 wind farms to minimize that avian mortality.

1 Q. I wouldn't disagree with you except for your first
2 statement that there have been significant mortality
3 events.

4 Is there anything particular about the Kibby site as
5 opposed to other ridgeline sites in the state of Maine,
6 New England, or the northeast that you saw that presents
7 unique risks to birds?

8 A. I guess I have two comments. One is if you look -- and I
9 don't recall which radar study it was -- but a range was
10 given for the number of targets that passed over Kibby and
11 that range was between 6 and 1506 birds per kilometer per
12 hour.

13 If the 1506 was more typical, then that makes the
14 Kibby area two or three times the volume of birds passing
15 over other areas that are found in New York and
16 New England, other comparable sites.

17 But again, this is a New York site that I cited, it's
18 very hard to know exactly -- it's very hard to predict
19 exactly whether or not a particular site is going to
20 induce lots of avian mortality, and certainly the radar
21 data is a good start but that, as I argued, is just the
22 first of three steps that needed to be done.

23 Q. I appreciate that and I guess since I have limited time, I
24 can't follow up on some of the specifics of that.

25 Let me just circle back to one last point, which is,

1 are you aware of any other project, wind power project,
2 that has conducted more preconstruction avian and bat
3 surveys than this project here?

4 A. I guess -- I have not -- I have not been involved with,
5 other than the Kenetech project, with other wind farm
6 applications, so I can't really answer that.

7 Q. So to your knowledge, no?

8 A. To my knowledge, no.

9 MS. BROWNE: Thank you. I'm going to switch over
10 here, if you could just bear with me, to Mr. Kimber.

11 EXAMINATION OF ROBERT KIMBER

12 BY MS. BROWNE:

13 Q. Good morning, Mr. Kimber?

14 A. Good morning.

15 Q. I'm Juliet Browne. Just a housekeeping matter, as I
16 understand it, you're actually on the board of directors
17 for Friends of the Boundary Mountains; is that correct?

18 A. That's correct.

19 Q. You spent a substantial amount of your prefiled testimony
20 and your testimony here today talking about the CLUP;
21 correct?

22 A. Correct.

23 Q. And you cited a number of passages from the CLUP in your
24 prefiled testimony, and I was pleased to hear you -- at
25 least acknowledge today -- that there is a balancing that

1 the CLUP contemplates between development on the one hand
2 and promoting or protecting the remote values that you've
3 discussed; correct?

4 A. There is. I think I also expressed it was rather clear to
5 me in the CLUP that there is a primary commitment there to
6 the protection of the jurisdiction, its overall integrity.

7 Q. I'd like to take you -- because I think the CLUP is the
8 starting point for the discussion here -- I want to take a
9 minute and look at the CLUP because I think it's important
10 to put these concepts into appropriate context.

11 Could you just read that section which is from Page 1
12 of the CLUP, this is how we start off with the CLUP?

13 A. Hm-hmm. It's purpose in these areas is to extend the
14 principles of planning and zoning, to preserve public
15 health, safety, and welfare, to encourage the well planned
16 multiple use of natural resources, to promote orderly
17 development, and to protect natural and ecological values.

18 Q. So in those categories, the natural and ecological values
19 come last?

20 A. Natural and ecological values come last? Is that what
21 you're saying?

22 Q. Yes.

23 A. Yes, that stresses their importance.

24 Q. Then continuing with the CLUP, could you read, this is a
25 section of the CLUP on development?

1 A. The Commission has a dual mandate with respect to
2 conservation and development in the jurisdiction. It must
3 reconcile the need to protect the natural environment and
4 other important values from uses that cause degradation
5 with the need for traditional resource-based uses and
6 reasonable economic growth and development.

7 Q. That's not a provision -- neither of these provisions are
8 provisions of the CLUP that you referenced in your
9 prefiled testimony, are there?

10 A. No, they are not.

11 Q. And you would agree that that reflects the dual mission,
12 dual mandate of the Commission here?

13 A. Yeah -- you know --

14 Q. That's okay.

15 A. We could talk about this.

16 Q. I hear you. I also just want to be clear, it's not your
17 testimony that the CLUP precludes rezoning of a P-MA area
18 to a development subdistrict to allow wind power, is it?

19 A. No, it does not preclude it. It certainly puts, it seems
20 to me, very significant hurdles in the path of that kind
21 of rezoning.

22 Q. And you would agree that the Commission must undertake a
23 balancing when it's presented with a specific application
24 and a specific area above 2700 feet?

25 A. Yes, it must undertake a balancing, but I can also cite

1 passages here that stress how that, you know, some, as I
2 say, some of the hurdles that must be considered in that.

3 Q. I mean, that's a good example if you go to the next line.

4 A. Okay.

5 Q. This is the energy resources section, which, specifically,
6 I don't know if you were here for my opening comments, but
7 specifically acknowledges the wind resource in the state
8 of Maine and that much of it occurs among mountain areas
9 or areas above 2700 feet.

10 Next slide.

11 A. Okay, I would like to respond to that.

12 Q. Let me just give you the next one and I think it will be
13 more complete context.

14 In fact, the CLUP specifically identifies four areas
15 of particular concern with a rezoning of a P-MA area to
16 allow wind power development, and those are visual
17 impacts, soil impacts, wildlife impacts, and technical
18 feasibility; correct?

19 A. That's right, yes.

20 Q. The other thing that you talked about in your testimony
21 was the fact that you felt the applicant here was making
22 an artificial distinction between peaks over 4000 feet and
23 peaks over 3000 feet, as I understand your testimony;
24 correct?

25 A. Yes, I think that's fair to say. That the -- somehow --

1 to me it seemed an artificially high value placed on peaks
2 that may have a 300-foot difference than a peak somewhat
3 lower.

4 Q. If I understand your testimony correctly, you believe that
5 the entirety of the boundary mountains, not just the
6 portions over 2700 feet, are off limits to wind power
7 development; correct?

8 A. The boundary mountains, yeah -- yeah, I do believe that --
9 yeah, I mean that is clear. I do believe that that region
10 is an unusual region in the state deserving of protection,
11 yes. Yes.

12 Q. So it's the entirety of the boundary mountains above and
13 below 2700 feet; correct?

14 A. Above and below 2700 feet -- well, I do speak of the
15 necessity of landscape protection, so that certainly would
16 involve obviously some places that are under 2700 feet,
17 yes.

18 Q. This is just a map of different mountain areas and I want
19 to make sure I understand, you know, the full context
20 here.

21 Your testimony is that the boundary mountains -- I
22 think as you said, the -- let's refer to the high western
23 mountain area.

24 Do you know what I'm referring to when I say that?

25 A. We're referring essentially, I guess I think I would refer

1 to it as the AT strip, if you will. The high mountain
2 peaks from --

3 Yeah, this would be essentially what I sort of called
4 AT corridor, and then here's the boundary line. Yes, it's
5 two separate areas.

6 Q. And you described the AT corridor as a gold standard?

7 A. Yes.

8 Q. The boundary mountains as the silver standard?

9 A. Yes.

10 Q. So as I understand your testimony, the AT corridor is off
11 limits to wind power development; correct?

12 A. The AT corridor, well, yes, it would be -- I mean, if you
13 were going to say, yeah, very close to the AT corridor
14 would be off limits. Yes.

15 Q. Let's just say that entire high western region, are you
16 suggesting there's portions of it that under your
17 testimony would be appropriate for development?

18 A. This is the AT corridor again you mean?

19 Q. The Longfellow Mountains --

20 A. Boy, it would be -- no, it could be -- it would depend
21 then on distance, location, who knows, you know.

22 Q. Just so I'm clear, the entirety of the boundary mountains
23 is off limits, but you think there may be portions of the
24 western high mountains that are appropriate for
25 development?

1 A. Portions of --

2 Q. Let's take -- what about the Mahoosucs?

3 A. Oh, do you know what we're getting to here? There is a
4 problem here because the high mountain area is in,
5 interestingly enough, a more settled area than the
6 boundary mountains are.

7 You know, in other words, the proximity to settlement
8 in what's designated as a Longfellows Mountain area is
9 much closer to settlement but this gives me the hesitation
10 that I just went through there, that probably there may be
11 areas that would be in terms of previous settlement that
12 might be more appropriate.

13 Q. Can you think of any?

14 A. Can I think of any? No, I can't think of any, no. But --

15 Q. Well, let's talk a little bit about the types of values
16 that you've articulated as present in the boundary
17 mountains.

18 I think you identified the absence of formal trails
19 as one of the important considerations for why that area
20 is special?

21 A. Hm-hmm (indicates yes).

22 Q. In fact, there's actually a trail, I think as people have
23 talked about, up to the top of Kibby Mountain; right?

24 A. Yes.

25 Q. To the extent that bushwhacking opportunities are the

1 metric that you use, it's true, isn't it, that there are
2 substantially more opportunities for bushwhacking in the
3 North Maine Woods, for example?

4 A. There are more opportunities?

5 Q. Well, the North Maine Woods is an area of, what, 3.5
6 million acres?

7 A. Yeah, you know, there's probably no place in the state of
8 Maine if you plunked down that you could walk 1 mile
9 without running into some kind of road.

10 Whether it's in northern Maine or in the boundary
11 mountains or the Longfellows Mountains. Bushwhacking --
12 bushwhacking is obviously something that takes its origin
13 from some place that you can get to if you don't bushwhack
14 to.

15 Q. I wasn't suggesting that you couldn't get there but as I
16 understood your testimony on Page 10, you identified the
17 presence of opportunities for bushwhacking in the boundary
18 mountains as an indication of their special uniqueness?

19 A. Yeah, it is. For mountain terrain -- for mountain
20 terrain, yes. If you're up in the North Woods, it's a
21 fine place to bushwhack, it's a different type of terrain,
22 it's a good place to bushwhack as well.

23 My point was that this is a remarkable mountain area
24 that is at this point undeveloped and has great potential
25 and is currently used by some people quite extensively --

1 not by many perhaps -- but it's used by a great number of
2 people at this point and has considerable potential as
3 recreational area in the future.

4 Q. Let me just return to that, follow up on that for a
5 minute.

6 As I understand it, the area is not used by many
7 people, the boundary mountains; isn't that the case?

8 A. I have never done a count up there. I know fair numbers
9 of people who do go up there, in other words, people I
10 know, the bushwhacking crew, right.

11 Q. You don't have any -- you haven't done any kind of
12 survey --

13 A. I have not.

14 Q. -- formal about the level of use that occurs; correct?

15 A. I have not.

16 Q. In fact, I believe you wrote in a May 11, 2007 editorial
17 or op-ed piece that relatively few people in Maine and
18 even in Franklin County seem to know about the boundary
19 mountain region?

20 A. Yes, I agree.

21 Q. So this is not a heavily used area by recreational,
22 bushwhackers, or others; correct?

23 A. No, it is not to my amazement frankly.

24 Q. I think in the Friends of the Boundary Mountains
25 literature they all say the boundary mountains are known

1 to just a few fortunate people; correct?

2 A. I consider myself among them.

3 Q. I appreciate that. And you also say that in your prefiled
4 testimony the importance of allowing for continued back
5 country opportunities, and I think what you say on Page 11
6 is that those back country opportunities are important as
7 the demand for them continues to grow; is that correct?

8 A. That's correct.

9 Q. Page 11?

10 A. Yes.

11 Q. You rely on the May SCORP in your testimony. Are you
12 familiar with that document?

13 A. I am.

14 Q. Could you just describe for people who may not be what it
15 is?

16 A. Essentially an analysis of recreational needs and demands
17 in the state and how they might conceivably be met.

18 Is that a fair summary?

19 Q. I think you're probably more familiar with it than I am
20 and I'll take that. I want to show you some pages from
21 the SCORP that you rely on.

22 If you look at Page 17 there, if you look at that
23 first paragraph Public Use Trends, if you could read the
24 last sentence of that first paragraph.

25 A. What is particularly interesting in the following figures

1 is static or a decline in public use of more remote
2 recreation areas -- Baxter, Allagash, and North Maine
3 Woods -- and growth and attendance have developed parks
4 closer to population areas.

5 Q. Then if could turn to Page 20 of that same document.

6 A. Hm-hmm (indicates yes).

7 Q. If you look at the last paragraph there, if you could just
8 read the last sentence of that paragraph.

9 A. Camping, is that the one you mean? Camping days double?

10 Q. The overall trend. Page 20.

11 A. Oh, okay, I'm sorry. The overall trend in North Maine
12 Woods camping is declining.

13 Q. So at least you would agree that based on the SCORP that
14 you rely on, that makes clear that bushwhacking, remote
15 camping, camping, those trends are declining?

16 A. Well --

17 Q. At least based on the SCORP?

18 A. Let me find my -- let me find my reference to the SCORP.

19 Q. Page 7 is where you talk about.

20 A. Yeah, Page 7 is where I talk about it.

21 Yes, of course, there I am referencing the visual,
22 the sightseeing, what people want to do when they come to
23 Maine, their interests in visiting wilderness, 38 percent;
24 lakes and rivers, 37 percent; natural environment, 36
25 percent; the interest in visiting naturally attractive

1 areas.

2 Yeah, okay, so those in a way, you know, the
3 Allagash -- what were the references there again --
4 references were to declining visitors to Acadia,
5 overnight -- what was the other? Declining public use of
6 more remote recreation areas -- Baxter, Allagash, and
7 North Maine Woods -- and growth and attendance at
8 developed parks closer to population areas.

9 Yes, this is, of course, in direct contrast to what
10 the CLUP says which says back country interest in back
11 country recreation is increasing. So somebody must be
12 wrong.

13 Q. So although you rely on the SCORP for some assertions, you
14 don't believe ultimately it's a reliable or relevant
15 source?

16 A. I believe -- yeah, it certainly is reliable in its
17 indication that people come to Maine to visit and be in
18 and see natural areas that are attractive.

19 I may also point out there that the top category,
20 which I cited there, 66 percent of people who come for
21 overnight visits want to visit small towns and villages.

22 Clearly it's another attractive area for people, but
23 that does not preclude their interests in the more remote
24 areas.

25 Q. Let's just look at those statistics in the SCORP. In

1 fact, if you look at Page 8 of the SCORP, doesn't that
2 indicate that by far when people come to Maine, the sad
3 fact is, most people come to Maine to go to Kittery,
4 Freeport -- not to denigrate those areas -- Ogunquit,
5 Kennebunkport, Bar Harbor, and Acadia, at least there's
6 some natural viewing in there.

7 But the realty is that the document that you rely on
8 establishes that's what the lion's share of what people
9 come to Maine for, not for the type of the values that you
10 articulated and I may share those values, but that's not
11 who's coming to Maine unfortunately.

12 A. Yeah, the people who come to shop obviously are not going
13 into the Maine LURC jurisdiction to do that.

14 It seems to me that at issue in this hearing is the
15 protection of the LURC and of the LURC jurisdiction and
16 not of Freeport.

17 Q. I would agree with you on that. My concern was your
18 taking the reference from the SCORP to suggest that most
19 people are coming for an outdoor experience and in fact
20 they're coming to shop?

21 A. Absolutely they are, but the people who are coming to
22 Maine for outdoor experiences, plenty of them still are
23 coming to experience the natural world and not the
24 developed world.

25 MS. PRODAN: I just think Mr. Kimber is entitled to

1 get a question and not have to anticipate what it is that is
2 trying to be asked. Thank you.

3 MS. BROWNE: If you're confused, please let me know.

4 BY MS. BROWNE:

5 Q. I want to shift for a minute on this concept of
6 remoteness.

7 You talked about going to Seboomic Lake?

8 A. Yes.

9 Q. And the feeling of remoteness there and that not being --
10 the presence of Golden Road didn't interfere with the
11 sense of remoteness; is that a fair characterization?

12 A. In the context of Maine, yes, it did not.

13 Q. I just want to be clear, you talked about the fact that
14 you could get on a road from Millinocket and go to Quebec
15 City and that didn't interfere with your sense of
16 remoteness.

17 You weren't suggesting that Seboomic Lake was close
18 to Millinocket, were you?

19 A. Close to Millinocket? It isn't all that far. An hour's
20 drive.

21 Q. 57 miles; right?

22 A. 57 miles, yeah, wood's road, over an hour's drive.

23 Q. And Quebec is even further; correct?

24 A. Quite a bit.

25 Q. And Seboomic Lake is part of Seboomic Unit Management

1 Plan; correct?

2 A. Yes.

3 Q. So this is public preserve land that you were in; correct?

4 A. No, it's not; I was off the public preserve land.

5 Q. But part of the -- well, you're surrounded by public
6 preserve land in that area; correct?

7 A. The map does not extend -- the public preserve land does
8 not extend north of the lake, does it?

9 Q. Well, let me show you the Seboomic Unit Management Plan --

10 A. Yes, I've seen some of that.

11 Q. Great. And rather than spend time about are you within or
12 without, you would agree that that's the general area of
13 the Seboomic Unit Management Plan is where you were;
14 correct?

15 A. Yeah, we were near -- put it this way, actually there's a
16 mistake, whether you're left-handed or right-handed, we
17 were actually hiking northwest, not northeast, of
18 Seboomic. My own correction there.

19 Q. If you could look at Page 10 of the Seboomic Unit
20 Management Plan --

21 A. Which I don't have -- oh, sorry --

22 Q. -- the top of that is titled Remote but Accessible
23 Location?

24 A. Hm-hmm, yeah.

25 Q. And you'll see in that paragraph that the State, would you

1 agree, characterizes this area as "semi remote"?

2 A. Where does this term semi remote come from?

3 Q. Just so because the court reporter can't hear you
4 mumbling, could you just read that paragraph, please.

5 A. The Seboomic Unit far enough from concentrated areas,
6 interstate highways, and utilities to be considered
7 remote, yet it is accessible by car. In this sense, the
8 term semi remote is appropriate for this unit.

9 It is located more than 75 miles from the interstate
10 and 20 miles from a State road, yet it can easily be
11 visited on a day-use basis by residents and visitors
12 staying in nearby gateway communities with Greenville,
13 population 1419, and Jackman, population 1057, which lie
14 within 35 miles of the unit. Okay.

15 Q. So you weren't suggesting that being in the boundary
16 mountains of the area of the Kibby project was remote in
17 the same sense that being in the Seboomic Unit Management
18 Area was remote, were you?

19 A. What I'm suggesting -- did suggest in my prefiled
20 testimony is that remoteness in Maine has a definition
21 that is like wilderness character in Maine.

22 It has to be defined in the context of an already
23 heavily roaded area, and therefore to say that Seboomic is
24 more or less remote in a sense for this discussion is not
25 relevant, that in, you know, in the content of this

1 discussion, the Kibby Mountain area, Kibby Range area is
2 also remote and that is the point that I try to make.

3 Q. Since I'm running out of time here, just a few last
4 questions --

5 A. Sure.

6 Q. You'd agree remoteness is a relative concept; correct?

7 A. Remote -- well, it's relative.

8 Q. There are degrees of remoteness?

9 A. I'm sorry?

10 Q. There are degrees of remoteness?

11 A. Degrees of remoteness -- no, I'm not so certain that I
12 could say that in the context of this discussion because
13 there is -- in other words, to say that a town that is two
14 townships away from development areas is less remote than
15 one that is ten townships away is, in the context of the
16 term remote as it is used in the jurisdiction, is not
17 correct.

18 To say that this place -- this place here is less
19 remote than that one, it may be farther but it is not in
20 the terms that the Commission has to deal in, it is not
21 less remote. No.

22 Q. So what is the definition of remote?

23 A. The definition of remote I could cover in considerable
24 detail in my testimony and also my rebuttal testimony that
25 remote is a concept used in the Commission's deliberations

1 that is applied to lands in the jurisdiction, that are not
2 in the fringe of the jurisdiction and that -- well, again
3 I have to back up because remote is sometimes used in
4 applications of sites that are in the fringe.

5 Q. I don't mean to interrupt you, but I appreciate that's
6 probably a too complicated question for me to ask given
7 the time constraints.

8 A. It is a complicated question, it is indeed.

9 Q. But there's nothing in the CLUP -- there's no prohibition
10 on allowing development in an area that someone determines
11 is remote; correct?

12 A. There is no prohibition, as I understand it, in the
13 development anywhere in the area; however, there are these
14 hurdles, and remoteness is one of the characteristics of
15 the jurisdiction that the law protects.

16 MS. BROWNE: And just one last series of questions,
17 Chairman Harvey.

18 THE CHAIR: You're out of time.

19 BY MS. BROWNE:

20 Q. You rely on David Field as somebody who articulates the
21 values that you think are important in the western
22 mountains and the boundary mountains; correct?

23 A. I do. That doesn't always mean I agree with David.

24 Q. On Page 7 you state, quoting him, "Beauty is why many
25 people born in western Maine still live here, why many of

1 us from away have come to live, why vacationers come back
2 to Maine and its western mountains year after year.

3 That's your testimony; correct?

4 A. That's correct.

5 Q. Are you aware that David Field has stated under oath that
6 he does not object to the Kibby project?

7 A. No, I'm not aware of that. That's why I said I did not
8 anticipate that I would agree with David, much as I
9 respect him.

10 MS. BROWNE: No further questions. Thank you. Do
11 the other intervenors have any questions?

12 MS. BURNS: We don't have any questions.

13 THE CHAIR: Okay. Thank you very much. NRCM. Okay.
14 Very good. That leaves it to us.

15 Rebecca? Ed? I'll let Ed start.

16 MR. LAVERTY: Thank you, Mr. Chairman. Thank you for
17 your testimony.

18 EXAMINATION OF ROBERT KIMBER

19 BY MR. LAVERTY:

20 Q. Mr. Kimber, I wanted to revisit this notion of balancing
21 in one of the earlier statements in the CLUP that you read
22 at Ms. Browne's behest.

23 It does -- and I think our view are different
24 interpretations -- it does set up a balance between
25 preservation of resource values with well planned

1 development. Just as an aside, I might say, your response
2 to her question reminded me of a quote from the attitudes,
3 they who are first are last and they who are last shall be
4 first.

5 Nonetheless, what we're trying -- I think in a
6 nutshell, what we're trying to do is we're trying to
7 preserve the values of the jurisdiction and at the same
8 time allow development. One of the ways we've done that
9 is we've used the concept of adjacency by limited
10 development to areas along the fringe of the jurisdiction.

11 As you note, a draft CLUP has been apprised of rather
12 uncontrolled development, which is single-family dwellings
13 that fall below subdivision review and not reviewed by
14 LURC at this time, and I think there are some concerns
15 about uncontrolled development, squat development
16 throughout jurisdiction.

17 One of the ways we are getting at this uncontrolled
18 development is to try to limit development to areas not
19 only where there is similar development but where there is
20 also infrastructure available.

21 And one of the things that has been presented to us
22 -- it seems a little counterintuitive -- but has been
23 presented to us is that in this area of the state,
24 interestingly enough, the infrastructure to support wind
25 power exists where it doesn't in most other areas

1 throughout our jurisdiction in that transmission capacity
2 is available -- might need to be modified but it's
3 available -- substation capacity here is available, and
4 that if you look at where the resource and the
5 infrastructure overlap, this is one of those areas that
6 are prime for development.

7 So I guess in trying to make the balance, I'd ask you
8 to sort of address that, I realize that to say that a
9 27-mile transmission line may in some people's mind
10 stretch the idea of available infrastructure, but as
11 compared to Seboomic, where we might be putting hundreds
12 of miles of transmission line and therefore opening our
13 vast areas of jurisdiction to the development, it seems
14 that the argument here that infrastructure exists, needs
15 to be taken into account in making that balancing
16 determination.

17 I'd ask if you comment on that.

18 A. Yeah. Boy, I mean, I hear what you're saying, I
19 appreciate what you're saying, but I return again, I
20 guess -- this may be, who knows, those judgment calls in
21 our lives, but I look at this mountain area here, this
22 western mountain area, the boundary mountains areas, which
23 is quite extensive, I balance that -- I balance that
24 against the availability of that particular
25 infrastructure.

1 Also, I do have to say the 27 miles of transmission
2 line you mentioned is a stretch, it seems to me, that
3 there are certainly areas in the jurisdiction and there
4 are areas outside of the jurisdiction. This is another
5 whole discussion we haven't gotten into.

6 As to the siting, the appropriate siting of
7 installations of this kind, that given the scarcity of
8 remote undeveloped lands in the state, the question in my
9 mind always is why, why the rush, in other words, to the
10 jurisdiction. Why the rush to our back country lands
11 rather than to our developed landscapes.

12 Again, of course, impacts on communities, but in any
13 case for this Commission, its concern is the jurisdiction,
14 and it seems to me that this is an extremely valuable area
15 of the jurisdiction that has to be balanced against the
16 perhaps the availability of infrastructure that you see
17 there.

18 It also would seem to me, if you would compare this
19 to, say, Stetson Mountain, there's quite a difference
20 there. You know, this particular site is, in terms of its
21 natural values, much more interesting it seems to me.
22 Probably folks over there might dispute that, but the
23 proximity there to roadways and also simply the height of
24 that area, it's lower, so --.

25 I guess -- in other words, you asked me for my read

1 on that balance, that's what it would be. I would look at
2 that landscape and say that it still outbalances whatever
3 virtues there may be in that access to Kibby construction.

4 Q. I appreciate your response, and I think that's the
5 dilemma. But I think that we do have to acknowledge that
6 the infrastructure does exist here. I think that's an
7 important thing that we need to acknowledge.

8 A. Well, the infrastructure is the road basically at this
9 point.

10 Q. It's the transmission facilities and the substation
11 facilities.

12 A. Yeah, but I mean, you're not saying, though, that 27 miles
13 is a short distance then for?

14 Q. As opposed to 200 miles or so?

15 A. 200 miles, yeah.

16 Q. I acknowledge that. It's in the eye -- to what extent
17 does that meet the immediately available infrastructure.
18 Nonetheless, I think we need to acknowledge that, the
19 substation here, and the existing transmission capacity of
20 Flagstaff here creates an infrastructure that doesn't
21 exist in many other areas within the jurisdiction. I
22 think that's part of my dilemma.

23 Let me move on to something else, if I might. Just
24 quickly, going back to the notion that a number of surveys
25 have indicated that the use of more remote recreational

1 opportunities in the state of Maine are diminishing. My
2 understanding -- and I wanted to check this with you -- is
3 that is to a great extent a result of demographics and the
4 fact that the baby boomers are getting older and we now
5 would like to go to have a nice warm meal and a warm bed
6 at the end of the day and do our excursions in maybe a
7 less intrusive way, and so that a lot of diminishment of
8 the utilization of remote areas has to do with
9 demographics?

10 A. Where are the 20 year olds then?

11 Q. Kittery.

12 A. That's an interesting sociological question, issue that
13 you raised there. My gosh, it's just our gray beards out
14 there in the bush, something's going wrong.

15 You know. It also seems to me that -- wow, the
16 thought saddens me that you're saying, in other words,
17 you're saying that the evidence seems to suggest that
18 anybody under 72 is not out there is a sad commentary, No.
19 1; and No. 2, that there is no necessity then to protect
20 the natural values of the jurisdiction, we might as well
21 write it off because nobody is going to use it.

22 Q. That was another question -- this is getting to the point
23 of testimony.

24 Even though people may come to Kittery, they may come
25 to Freeport, it's interesting the type of consumption that

1 they engage in from a mail order firm whose cache is the
2 natural resource values of the state and Maine. And even
3 though people may come to Acadia and other places -- I'm
4 asking this as a question I guess.

5 Isn't a lot of the reason they come because Maine's
6 cache -- even though people may not experience it
7 directly -- has to do with its natural sort of reasonably
8 unspoiled values?

9 A. Yeah, I think that the chart from the SCORP that I did
10 quote, people are coming to charming small towns and
11 visiting areas and visiting natural areas certainly has to
12 do with that. Well, the weekend trip, if you will, right?

13 But again, I have difficulty reconciling all of this,
14 too, with the CLUP's very clear articulation that we need
15 to be saving back country, preserving back country lands
16 for the future.

17 That's in there and clearly the authors of the CLUP
18 and their document, as I understand it, received a stamp
19 of approval from the Commission, would indicate that those
20 landscapes are an important element of the state and are
21 landscapes that need preservation --

22 Q. Thank you.

23 A. Protection.

24 Q. Thank you.

25 A. Again, may I stress that Friends of the Boundary Mountains

1 has not said put this into a park, it has said simply,
2 keep this area for traditional uses of forestry and
3 outdoor recreation, back country recreation.

4 You look at all this stuff clearly, there's endless
5 balancing back and forth and back and forth in all these
6 documents, and you, good people, have the problem of
7 striking the judgment case in each instance of what is
8 there.

9 As I said, I found the CLUP a very fascinating
10 document.

11 Q. I think we're get a little afar.

12 A. We are indeed.

13 MR. LAVERTY: Thank you. Dr. Wilson, I have a few.

14 EXAMINATION OF HERB WILSON

15 BY MR. LAVERTY:

16 Q. What I'm about to ask may sound facetious, and I don't
17 mean it to be, a knee jerk, but I've wanted to ask this
18 question and you're here and I have the opportunity.

19 About a year or so ago, we, in anticipation of wind
20 power in general, conducted a number of forums where we
21 invited people to come and talk generally about wind
22 power, and in one of those fora, an ornithologist from the
23 State Department of Inland Fisheries & Wildlife attempted
24 to sort of contextualize bird mortality and bat mortality
25 for us and indicated that the bird mortality associated

1 with collisions with high-rise buildings in the
2 United States far outweighs bird mortality associated with
3 wind farm mortality.

4 And also beyond that, he went so far as to say, if we
5 wanted to use an environmentally responsible approach to
6 bird mortality in the United States, he said that the
7 maximally efficient way to do that would to have the
8 ownership of domestic cats made illegal, that they far
9 exceed the mortality associated with collision in
10 high-rise buildings.

11 Now, again, I'm not -- I know this sort of sets up a
12 red herring. I'm not trying to minimize the impact of
13 bird mortality associated with wind generation; but help
14 us put it in that context, please. What are we talking
15 about here?

16 A. In actual numbers I don't have the data, but it seems to
17 me that those sorts of comparisons are strained. Even if
18 the mortality associated with wind turbines is 1 percent
19 of those that hit buildings, that's still 1 percent of
20 birds that mortality could be eliminated, and certainly
21 collisions with moving cars are significant sources, free
22 running cats, absolutely, collisions with buildings,
23 absolutely.

24 But it seems to me that because this sort of source
25 of mortality is huge compared to this source of mortality,

1 it still doesn't mean you should do nothing about a
2 smaller source of mortality.

3 Plus, the birds that are often most often -- well,
4 they are often killed at wind towers or larger live birds
5 like the raptors and so forth.

6 People like to try -- like the Altima wind turbines
7 in California, which were poorly designed, and the huge
8 number of golden eagles have been killed there. Things
9 have gotten better, absolutely, but still it represents a
10 significant source of mortality paling in comparison
11 perhaps to the mortality associated with birds colliding
12 with windows, but still it's a mortality that we don't
13 have to exact on birds by not -- by siting our wind
14 turbines appropriately.

15 MR. LAVERTY: Thank you. Thank you Mr. Kimber.

16 MR. WIGHT: A couple questions for Bob.

17 EXAMINATION OF ROBERT KIMBER

18 BY MR. WIGHT:

19 Q. Juliet managed to get you to say that the boundary
20 mountains and the Longfellow Mountains may not be
21 appropriate for wind. Yesterday we saw a map that showed
22 the boundary mountains and the Longfellow Mountains as
23 being the best wind resource in the state.

24 We deal with a resource-rich area, so a question to
25 you, did you ever oppose timber cutting practices in

1 western Maine?

2 A. Did I oppose timber cutting practices?

3 Q. Were you involved in the Mt. Blue efforts?

4 A. No, I was not. I mean, I certainly have -- I certainly,
5 you know, I've looked at various cutting practices
6 sometimes and said no, I think it's not so great, and
7 there could be improvements in cutting practices in the
8 state of Maine.

9 I have never advocated in shutting down the cutting
10 of wood in Maine. In fact -- I won't bother but I've
11 written about this and my vision of Maine -- if you'll
12 excuse this brief digression -- is thriving timberlands
13 with carefully selected preserved large areas for back
14 country and traditional recreational uses.

15 So I've never advocated that we're just simply going
16 to get rid of timber.

17 Q. Thank you. So we all pretty much accept the fact that
18 this is an industrial forest. This is what's been
19 happening here for the last hundred years.

20 A. Absolutely.

21 Q. And I think we're projecting that what should continue to
22 happen here into the future?

23 A. Hm-hmm (indicates yes).

24 Q. We've gone through Poland Springs requests to withdraw
25 water from the areas of the jurisdiction, and we've said

1 that's a resource-based industry and we've made
2 accommodations for that.

3 So the question is wind being a resource, can you see
4 any chance in your back country bushwhacker's mind that we
5 can accommodate wind resources in the same way that we've
6 accommodated these other resource-based industries?

7 A. We probably can, yes. I have -- you know, as I began to
8 mention earlier, it seems to me that LURC jurisdiction is
9 not the only place to do this.

10 We know at this point in history that wind resources
11 do not have to be Class 7 and 8 to be exploited for wind
12 power installations, and certainly the history of
13 technology in wind power is far from over.

14 Who knows what the next five or ten years will bring
15 in terms of machinery that is capable of utilizing
16 different wind power classes in areas.

17 So, no, I would -- what I would be doing, if you give
18 me my druthers, is looking at areas outside the
19 jurisdiction that have development already where there are
20 not really, really severe conflicting interests with the
21 communities that surround them.

22 In other words, put them in developed areas. The
23 primary wind resource in Maine is again on the coast. You
24 look at inland Maine, those wind power maps, there would
25 be tiny little streaks of high-valued areas, they're all

1 in the western mountains, they're all in our area, and so
2 I would -- if you say where the premier wind resource is,
3 it's on the coast. It isn't necessarily inland. There's
4 vastly more wind opportunity on the coast.

5 We somehow have to figure out how to locate these
6 things if we're going to have any, that they have the
7 minimal impact on what makes Maine a special place.

8 Q. What we've learned from the only wind farm that we have in
9 the state so far is Mars Hill is that if you have a wind
10 tower within a certain distance of residences, you run
11 into difficulty, so I don't know if it's remoteness but
12 it's certainly separation from population is another
13 concern.

14 A. Yes.

15 Q. But anyway, one other thing is land ownership.

16 We're very good about talking about the vast
17 unspoiled areas, the opportunities we have for the
18 bushwhacking crowd to go to these places and they should
19 always be maintained for us to do that, or maybe they
20 could cut the wood if they cut it the right way.

21 These people own this land and expect a return on the
22 land. Do you think there's any way that we can get the
23 bushwhackers to pay their return or how are they going to
24 use their land if the wood products industry doesn't give
25 them the return they want?

1 A. Doesn't give them the return they want, well, that --
2 yeah, then how -- well -- again, we start getting into
3 rather large philosophical questions. The return they
4 want, no one is suggesting, I think, that they do not
5 deserve a return of some kind, right.

6 And I fully appreciate what you said about, you know,
7 all of us being guests on that land.

8 Q. Right, we have a gift that we somehow think has become a
9 right.

10 A. I have never taken that for granted, not at all. On the
11 contrary I think it is a real privilege that those
12 landowners have extended to us.

13 Q. So if a landowner said to you, I really don't mind you --
14 I think it's great that you're interested in going out and
15 using my land, but please understand that I need to put
16 some wind towers up on the top, is that going to destroy
17 your experience on this land?

18 A. Well, yeah, it is. I think it really does -- I think I
19 made it quite clear that that kind of development in this
20 territory is destructive of back country experience.

21 Q. Current back country experience. Back country experience
22 is what we've known right from the time of European
23 settlement until --

24 A. Again, the changes that have taken place in back country
25 experience even if my lifetime are quite dramatic.

1 Q. You no longer take the steam train to get to your trail?

2 A. Exactly. When you can get in your car at practically any
3 place in the state and drive to the most, if I may use the
4 words, remote corners of the jurisdiction, things have
5 changed dramatically.

6 What is back country in Maine, this is a whole set of
7 definitions that really have shifted in the course of our
8 lifetimes.

9 But, yeah, I've been off on this tact and I've lost
10 the point of your question.

11 Q. We have a holistic problem. We have a historical use and
12 now we have a major historical global problem that we need
13 to deal with.

14 So we need to step back -- I guess I'm testifying --
15 but I do think that there's a real question that comes up,
16 and you have the opportunity to be part of the solution as
17 the proponent of back country use.

18 A. Yeah. I mean, I do go back always in these discussions to
19 the goals and policies that are articulated in the CLUP.

20 Among the three, toward the end on Page 134, if I may
21 read those, support and promote the management of all
22 resources based on the principles of sound planning and
23 multiple use to enhance the living and working conditions
24 of the people of Maine to ensure the separation of
25 incompatible uses and to ensure the continued availability

1 of outstanding quality water, air, forest, wildlife, and
2 other natural resource values in the jurisdiction, that's
3 No. 1.

4 No. 2, conserve, protect, and enhance the natural
5 resources of the jurisdiction primarily -- primarily --
6 for fiber and food production, non intensive outdoor
7 recreation and fisheries and wildlife habitat.

8 No. 3, maintain the natural character of certain
9 areas within the jurisdiction having significant natural
10 values in primitive recreation opportunities.

11 Flipping back again to the energy section, LURC
12 regulatory approach, number of protection zones that are
13 applied to resources that can be used for energy
14 production, such as high mountain area protection zones,
15 shoreland protection zones, and wetland protection zones.
16 In all of these cases, the focus of these zones is the
17 resource, not the energy which can be produced from it.

18 Q. Thank you.

19 A. There are themes.

20 MR. WIGHT: Thanks.

21 MS. KURTZ: Hopefully I can keep this brief.

22 EXAMINATION HERB WILSON

23 BY MS. KURTZ:

24 Q. I struggle with -- and I'm sure -- I can't speak for the
25 commissioners -- but sort of the conflicting testimony

1 that we get, just kind of go back and forth, and I guess
2 these are questions for Dr. Wilson.

3 In the statute to change a zone, the applicant -- or
4 the applicant has to prove that there's no undue adverse
5 impact on a resource.

6 I guess one of the concerns that I have, sort of a
7 red flag from me, there was testimony about the Red-eyed
8 Vireo being one of the most common birds in North America
9 and the two warblers, which are rarely seen in Maine and
10 I -- and whether or not that testimony really demonstrates
11 the data may not be adequate.

12 I guess I have two questions: One, what would the
13 possible explanations be for why they didn't see the
14 Vireos and why they saw the warblers, and what that would
15 mean.

16 Put that in context, how can -- how can any -- how
17 can the applicant prove no undue adverse impact if it
18 doesn't know what's there?

19 A. Yes, Ms. Browne was absolutely correct. The amount of
20 material that was provided on avian abundance and to a
21 lesser degree on bat abundance is huge. There's a
22 tremendous amount of work there.

23 We also know that the various studies were farmed out
24 to different firms. We don't know -- at least based on my
25 reading -- the particular firm was noted but not the

1 particular person.

2 One might expect that there would be different
3 abilities among different people. It could be different
4 biologists that are doing surveys at different times.
5 When I'm looking at these sorts of things, I'm always
6 looking for general patterns, and when I see that Red-eyed
7 Vireo is found in some foraging studies and some breeding
8 surveys but yet is missing from a foraging survey, then
9 I'm thinking, well, there's a discrepancy here in the
10 abilities of the people to identify the birds that were
11 there.

12 My suggestion for the reason for Red-eyed Vireos
13 being absent is that their song is somewhat similar to the
14 song of the blue-headed Vireo, which was reported on that
15 particular May 2006 daytime foraging study.

16 So that may be an explanation there. Most bird
17 identification, frankly, in the spring and summer is done
18 by ear. It takes training to do that, and that may have
19 been what was going on there. I don't know for sure.

20 But anyway, that sent up a red flag and the red flag
21 was hoisted even higher when I see the presence of two
22 birds that extraordinary, absolutely extraordinary, to be
23 found in Maine.

24 Again, I didn't know the prominence of the sightings,
25 the person that had done the sightings. That came back in

1 rebuttal testimony to my original prefiled testimony, but
2 certainly morning warbler is a very similar warbler to the
3 Connecticut warbler, which is found in the mountains of
4 Maine, and so that was a possible misidentification there.

5 Golden-winged warbler is not seen well and could be
6 confused for perhaps a chestnut warbler, yellow nut
7 warbler.

8 So anyway, the point there was to say that I'm not
9 sure that we have a totally firm handle on the birds that
10 are there. Those were the red flags that jumped up at me
11 from my examination of the abundance state of the foraging
12 data.

13 Q. I guess a follow-up question to that, then, is the firm
14 that was employed to do this, if you were alarmed by these
15 anomalies, wouldn't they also -- shouldn't they also do a
16 follow-up study?

17 I guess it just -- it really -- I'm familiar with
18 Biodiversity Research Institute and it makes me question
19 the validity of the data and this is not to -- well, if
20 those anomalies were there, it would seem that there might
21 have been a suggestion that a follow-up study would be
22 done, and I guess I'm a little concerned that a follow-up
23 study was not done, that we still really don't know what's
24 there and what's not there.

25 It seems like a significant anomaly.

1 A. Yeah, if I had been writing that report, I would certainly
2 have not simply reported the Connecticut warbler and
3 golden-winged warbler without providing a footnote about
4 identification because, again, they are extraordinary
5 findings. I think I would have also been suspicious that
6 my data didn't include Red-eyed Vireo.

7 I don't know how far that goes, but just this jumped
8 out at me and I thought, well, this gives me a little
9 bit -- I'm a little skeptical now.

10 Q. Thank you. The other question is about the collisions,
11 some of those horrendous figures that you quoted, 10,000
12 birds in one night. Juliet communicated that it was
13 actually communication towers as opposed to wind towers.

14 Is it the long, tall structure that causes the
15 problem or the lighting that causes the problem?

16 A. It's the light itself, which is why -- whether it's a
17 lighted turbine, it's not spinning or even spinning or a
18 tower is irrelevant.

19 It's the light that's the confusing aspect. Again,
20 these confusions occur on overcast nights oftentimes
21 inclement weather where birds are trying to get down, and
22 they're unable to use either celestial navigation or lunar
23 navigation and figure out exactly whether they are. They
24 confuse a light as some celestial object and end up flying
25 around and around with devastating consequences.

1 Q. Is it -- do you -- knowing what you know about bird
2 behavior, the addition of spinning or rotating blades, a
3 communication tower does not have those rotating blades --

4 A. Right.

5 Q. -- but now you have something that is lit and has blades.
6 Would that, in your mind based on bird behavior, would
7 that be an added risk so that it's not just a
8 communication, that when you compare the two, it's perhaps
9 not fair to say that, well, they're communication towers,
10 so that data doesn't correspond.

11 Can they be compared and an added risk?

12 A. I think there would be added risk. I think the spinning
13 turbines would exacerbate the risk, so in fact it would be
14 an added sort of thing.

15 MS. KURTZ: I think that's it. Thank you.

16 MR. SCHAEFER: First of all, I've got to congratulate
17 you guys for fighting a good fight and doing it on your own
18 time and own nickel. I'm proud of you in that respect.

19 Back to the Friends of the Boundary Mountains, you've
20 been involved in this project since Kenetech -- or before
21 Kenetech --

22 MR. KIMBER: Yeah, the Friends of the Boundary
23 Mountains formed around the Kenetech project. Yes, so I have
24 been involved since then. Yes.

25 EXAMINATION OF ROBERT KIMBER

1 BY MR. SCHAEFER:

2 Q. I guess my question is, have you made any effort to obtain
3 ownership by fund raising or by conservation easement of
4 any of these lands that you're interested in?

5 A. We did make -- yes, as you saw in my rebuttal testimony, I
6 attached to the rebuttal testimony a conservation plan
7 that the Friends of the Boundary Mountains did submit to
8 the Department of Conservation back in 1999.

9 Q. But as far as raising funds or trying to buy any of those
10 rights --

11 A. Well, yeah -- well, in the sense that we went to the State
12 to say, you know, can we find some funding to do this, we
13 did make that effort to, yes, conserve these lands.

14 We did not -- we didn't start writing letters to our
15 friends at that point and say, you know, we need \$12
16 million to buy this.

17 No, so we did not launch that kind of campaign but we
18 did make that overture to the Department of Conservation,
19 yes.

20 EXAMINATION OF HERB WILSON

21 BY MR. SCHAEFER:

22 Q. A question about towers. The wind towers are a solid
23 cylinder and some of the communication towers are erector
24 set-type deals.

25 Is there a difference in bird mortality between the

1 two types of construction or attractiveness to birds?

2 A. I don't know. I don't know.

3 MR. SCHAEFER: All right. Thank you.

4 MS. HILTON: Follow up on that question.

5 EXAMINATION OF HERB WILSON

6 BY MS. HILTON:

7 Q. I'm frustrated because we don't have more information. It
8 appears that the information about bird mortality is just
9 not out there and that we haven't had the kind of
10 experience, wind towers, that would be nice to have.

11 I'm just wondering, I think what I heard you say is
12 that the lighting of the towers is based on what we've
13 seen with lighting on communication towers is potentially
14 a big issue?

15 A. I think it's a big issue, yes.

16 Q. Do you think there is enough -- or that there has been
17 enough research done on that issue to actually -- for
18 TransCanada or for another developer -- to actually study
19 that issue without having to do the primary research that
20 we don't have that was specific to wind towers?

21 A. Could you say that once again?

22 Q. I'm just wondering, say you had done the work for a
23 proposal like the one that we're considering here, and
24 what would you have done with respect to this issue?

25 A. I guess -- I guess the thing that -- the way you're only

1 going to know for sure is monitoring what has been done
2 and monitoring mortalities at other wind turbines that are
3 already in existence as a way to at least get a handle on
4 that.

5 There may be data out there, I don't know about that,
6 but that's why I was suggesting that an environmentally
7 responsible way to try to do this project would be to
8 erect one or a few turbines, maybe even just towers
9 without the turbines spinning and see what the mortality
10 was.

11 At this point I don't think we know, but we know that
12 there's a potential for the occasional huge mortality
13 event, that a single -- that mortality in a single night
14 could in fact swamp the cumulative mortality over a year
15 from collisions with the spinning turbine blades.

16 Q. So -- so I guess, for example, lighting Met towers is
17 going to give us the information that we're looking for.
18 I don't think there is -- I think I know the answer.

19 A. I think that's right.

20 MS. HILTON: My other quick question is for Bob.

21 EXAMINATION OF ROBERT KIMBER

22 BY MS. HILTON:

23 Q. At LURC we had long discussions, particularly about the
24 recreational use and the friends and back country use.
25 What do you -- with respect to planning for the future, I

1 mean, what is our window? Are we just looking at the
2 current generations and those trends, but when you think
3 about the long term, I mean, what do you consider these
4 recreational uses and man's use of an area like this?

5 A. I mean, of course, both from my own preferences and also
6 from what is suggested and indicated as important in the
7 Comprehensive Land Use Plan, I think that the important
8 thing is maintaining opportunities for what are called the
9 primitive recreational opportunities, non motorized, which
10 is not to say I'm about excluding the motorized ones at
11 all.

12 Some important planning has to happen in the LURC
13 jurisdiction to accommodate those different types of
14 resources and -- activities rather -- and that the
15 long-range -- that long-range work has not been done yet.

16 In the interim what seems to be absolutely important
17 is to maintain the regions that make those kinds of things
18 even possible, you know, to say, if you're going to
19 have -- in the future you're going to have the option of
20 back country recreation in Maine, the landscapes that make
21 that possible have to be protected, and they are -- those
22 uses are compatible with forestry, we know that, we can
23 set up plans for the jurisdiction that would make that
24 possible.

25 But I guess what I'm driving at is that we simply

1 cannot foreclose that option at this point, and it is a
2 difficult decision, how do you go about this.

3 In northern Maine, clearly you're talking about the
4 major river corridors, you're talking about the St. John,
5 the Allagash, other important waterways are the major
6 resources in those areas. In western Maine, the CLUP
7 defines our region as the western mountains. They are our
8 keynoted natural resource.

9 Q. Do you think that, say a turbine farm that is 10 turbines
10 would have a different impact or be more acceptable in
11 this area than say a wind farm with 44 that we're talking
12 about now?

13 A. Yeah, I mean, scale clearly is a factor. Again -- and I
14 don't mean to throw red herrings into the discussion --
15 but this is why I have always -- and any kinds of
16 discussions I've had about planning wind power in Maine --
17 have always argued for widely distributed small plants in
18 relatively developed areas rather than in our back
19 country, because you can -- and the argument I guess is
20 that economies of scale and they're not commercially
21 viable, et cetera, et cetera.

22 But what would make sense to me would be small-scale
23 wind power development scattered throughout the developed
24 parts of the state where it does not impinge on
25 communities and is not huge in the back country.

1 I think it's very hard. Even -- simply the intrusion
2 of structure is what really makes a difference in the back
3 country. As soon as you have intrusive structure there,
4 then back country simply disappears. It's not there
5 anymore.

6 So I would say 10 is too many, yes; 10 is not as bad
7 as 44, but nonetheless, if you have that kind of large
8 intrusive structure in back country, it is no longer back
9 country.

10 This is kind of like the emperor and no clothes. You
11 look at that, and all the talk about the small footprint
12 and you have something that is 10 times higher than the
13 trees, that is not back country anymore. It is truly a
14 dramatic change.

15 Does that speak to your question?

16 MS. HILTON: Yes, thank you.

17 EXAMINATION OF HERB WILSON

18 BY MR. HARVEY:

19 Q. Dr. Wilson, how -- can you tell me why the species
20 identification in this case -- which was a problem,
21 problematic by your testimony -- is more important or as
22 important as the total number of birds that we're seeing
23 identified in the passage rates? Why is one -- is one
24 more important than the other, or are they both equally
25 important? Which of those issues is really the key

1 problem here or the key issue?

2 A. If I had to choose one of two kinds of data to take, I
3 would take the total number of birds passing over, no
4 question about it.

5 But it also becomes important to know what the birds
6 are that are there. The foraging studies sort of identify
7 on the ground the birds that likely are flying over that
8 previous night is secondarily important because some birds
9 are frankly more common than others, some are more
10 restricted in habitat than others. It's nice to know what
11 you've got.

12 Q. So I guess -- but the passage rate is a really important
13 issue for what we're dealing with here?

14 A. Absolutely.

15 Q. I think you expressed concern -- and I guess the
16 commissioners have as well -- about what kinds of
17 mortality we might expect from wind farms. We don't seem
18 to have a lot of data.

19 I don't know if you were here yesterday --

20 A. I was.

21 Q. -- but the applicant testified about the fact that it was
22 involved in some huge wind farm projects in Quebec, and
23 those have been in existence at least for several years.

24 Are you aware of any information emanating from those
25 projects regarding mortality?

1 A. I'm not aware of any information.

2 Q. Could we take those as models of what could happen here?

3 I don't know if the movements are the same on the Gaspé
4 peninsula?

5 A. Yeah, I don't know the exact siting. I don't know the
6 types of habitat. There are certainly comparable sites in
7 other parts of the northeast that would be reasonable. In
8 fact, these were the ones that were compared by the
9 National Research Council article that I referred to.

10 We have some data on actual annual mortality per
11 turbine.

12 THE CHAIR: Just to Mr. Kimber's point about -- I'm
13 probably close to testifying here.

14 EXAMINATION OF ROBERT KIMBER

15 BY MR. HARVEY:

16 Q. Your comment about dispersal element of these wind farms,
17 you're aware of what's going on, for example, in the town
18 of Freedom?

19 A. Yes.

20 Q. Where a small wind power --

21 A. Yes.

22 Q. Do you believe that there is any place that we could have
23 a meeting about wind farms and not have some friends?

24 A. It's a tough go. I hear that -- I hear that loud and
25 clear.

1 giving for bird mortality for the towers, the difference
2 between was it white lighting versus red lighting,
3 constant lighting or strobe lighting, and what effect
4 would that have?

5 I know for the proposal they're saying the lighting
6 would be red and it would be strobing at a slow rate.

7 Can you kind of tell me that the difference is or
8 similarity between the towers that you were citing and the
9 wind power that is proposed?

10 A. I'm not certain that I can be absolutely certain, but my
11 memory is that all the towers that I cited were in fact
12 red strobing lights, and I don't know how many were on
13 them.

14 I think that information is provided in the original
15 papers but I don't recall.

16 MS. MCKENZIE: Thank you.

17 THE CHAIR: I think at this point we'll take about 10
18 minutes and give our court reporters a little break. We'll
19 come back with Maine Audubon, Appalachian Mountain Club,
20 et cetera, that group testifying. You have a question,
21 Ms. Browne?

22 MS. BROWNE: I'd like an opportunity to do some
23 recross based on the additional testimony that's come out.

24 THE CHAIR: How much time do you need?

25 MS. BROWNE: 10 minutes.

1 THE CHAIR: We're going to do a break first. After
2 the break.

3 Are you going to have questions as well, Pam, of your
4 panel? You can think about it anyway and tell me afterwards.

5 Thank you very much. Appreciate your testimony and
6 discussion. Don't go away.

7 (There was a break in the hearing at 10:54 a.m. and
8 the hearing resumed at 11:13 a.m.)

9 MS. BROWNE: It will be limited to 10 minutes.

10 THE CHAIR: All right. We'll take you for your word.
11 Who do you want here? Mr. Wilson and Mr. Kimber,
12 okay.

13 MS. BROWNE: Thank you, Mr. Harvey, Dr. Wilson, and
14 Mr. Kimber.

15 EXAMINATION OF HERB WILSON

16 BY MS. BROWNE:

17 Q. Dr. Wilson, I just want to return. There was some
18 colloquy back and forth on the sighting of the Connecticut
19 warbler and the golden-winged warbler. I just want to
20 make sure that the record is clear and people understand
21 exactly what happened.

22 The Connecticut warbler, it's true that TRC
23 specifically acknowledged in its prefiled testimony that
24 that was an unusual sighting; correct?

25 A. I don't recall that, frankly, sorry.

1 Q. It's your understanding, again, that TRC immediately
2 communicated the sighting to US Fish & Wildlife and IF & W
3 and birding experts?

4 A. That's what you indicated earlier, yes.

5 Q. And that those experts -- and that the person that
6 actually saw the bird saw the bird at close range;
7 correct?

8 A. Yes.

9 Q. And that the person from Biodiversity Research Institute
10 is somebody that specifically had experience handling
11 Connecticut warblers at a banding station in coastal,
12 manager, and spring migration; correct?

13 A. I was not aware of that until that information was
14 provided in the rebuttal testimony to my original prefiled
15 testimony.

16 Q. And I appreciate that; but in light of the rebuttal
17 testimony, do you have greater comfort now that the
18 sighting was valid?

19 A. I still have skepticism, it is less.

20 Q. If you had made a similar sighting, wouldn't you have done
21 the same thing, talked to IF & W, Fish & Wildlife, other
22 expert birders, and discussed it?

23 A. I would have tried to get a photograph or a recording
24 immediately. That's what I would have done.

25 Q. And the golden-winged warbler, TRC also acknowledged that

1 that was somewhat unexpected; correct?

2 A. I don't recall that; perhaps so.

3 Q. And I believe you actually -- during my prior cross --
4 acknowledged that you had made a mistake and that in fact
5 you had thought that the siting was in subalpine habitat
6 and in fact the sighting was in the valley and a deciduous
7 area that's more appropriate for that bird; correct?

8 A. Yeah, misused the word alpine in my testimony. I meant to
9 say mountainous.

10 It was not clear to me from my original readings
11 where exactly that golden-winged warbler was found and
12 subsequently you indicated that it was found in a second
13 growth or earlier successional forest, which is more
14 typical.

15 Typically they actually are found in areas that are
16 perhaps four or five years beyond a clearcut. I don't
17 know what the particular habitat was where it was sighted.

18 Q. Again, you understand from the rebuttal testimony that the
19 bird was observed by a biologist from BRI, again; correct?

20 A. I was not aware of who observed the bird.

21 Q. But now you understand that's the case; correct?

22 A. I do.

23 Q. And that it was observed at close range for one and a half
24 minutes from various angles; correct?

25 A. I did not know that until today.

1 Q. It's in the prefilled rebuttal testimony. Did you have an
2 opportunity to read that?

3 A. I did. I don't recall that, I guess.

4 Q. And then also with respect to that same species, are you
5 aware that DEP and other birders in Maine have believed
6 that there are quite a few northern records of these
7 sightings in Maine, that they occur every year in Maine?

8 A. I'm not aware of that, and I follow the bird sighting
9 literature very carefully. I regularly read
10 North American Birds. I subscribe to North New England
11 Birding Journal, and anytime a golden-winged warbler is
12 sighted, it's a cause for rejoicing, and if those are
13 reported, they're not reported to a place where I see
14 them.

15 Q. So you're not away of any of those reportings; correct?

16 A. That would be correct.

17 Q. There was also some discussion on those towers that you
18 put up in your slide, I think they were communication
19 towers, with high mortality events?

20 A. Yes.

21 Q. And I just wanted to be clear, those towers are all guy
22 towers; correct?

23 A. At least two of them were, yes.

24 Q. And a guy tower -- guy towers -- create significantly
25 greater risks to birds than do towers that are not guyed?

1 A. The data I see indicates that the guy wires account for
2 probably two-thirds of the mortality. So there's still
3 significant mortality from the tower proper.

4 Q. And you understand that the turbines here are not going to
5 be guy; correct?

6 A. I understand that, yes.

7 Q. On the lighting, I think there -- I just want to make sure
8 there's no confusion on this -- you understand that the
9 proposed lighting here is not for a strobe or a solid
10 light but for the pulse, a slow pulse on and off; correct?

11 A. That's correct, yes.

12 Q. And you understand that the FAA lighting recommendations
13 have specifically been modified to address the types of
14 concerns about these mortality events when the birds get
15 confused on a foggy night and you may have single
16 incidents of high mortality; correct?

17 A. The FAA has tried to alter the lighting to ameliorate the
18 problem, but the problem still exists. It's not clear to
19 me by what percentage that mortality has been ameliorated
20 by the change and the frequency by which the pulse goes on
21 and off.

22 Q. That's not an area of your expertise; correct?

23 A. It would not be.

24 Q. And although I'm not going to go into it now because it is
25 complicated and would take sufficient amount of time, I

1 just want to be clear because there were questions about
2 lack of mortality data for wind turbines.

3 In fact, there is data in the US on mortality
4 associated with wind turbines; correct?

5 A. I cite it twice in a report by the National Research
6 Council that provides such data.

7 Q. And there's other data, too; correct? There is data on
8 operating wind farms and associated mortality?

9 A. That's what this report does. It collects all such data
10 into one single document.

11 MS. BROWNE: We'll try to provide some concise
12 information on that as part of the post hearing submittals
13 because I appreciate the question that has come up on that.

14 Thank you, Dr. Wilson.

15 EXAMINATION OF ROBERT KIMBER

16 BY MS. BROWNE:

17 Q. Mr. Kimber, I think I heard you say during some of the
18 questioning that you're not proposing that this area be
19 included in a park; correct?

20 A. That's right.

21 Q. Though you have presented -- you have sought to have the
22 State take some steps to conserve the area, provide some
23 sort of development restrictions; correct?

24 A. That's right.

25 Q. And those efforts have been ongoing since 1995; correct?

1 A. 1995 -- no, I mean.

2 Q. Well, for some time.

3 A. Our efforts to -- yeah, to raise some kind of interest and
4 attention for this area have been ongoing since 1995, we
5 published a little brochure about the area that's been
6 distributed.

7 As I mentioned earlier, yeah, in 1999, then we did
8 submit a conservation proposal to the State.

9 Q. And to date the State has not taken any action on that;
10 correct?

11 A. The State did in fact take action on it. The State
12 negotiated with the landowner. As always, I mean, I don't
13 know -- I don't know the content of those negotiations, so
14 I can't give you any details about that.

15 The State did contact -- as I understand it -- did
16 contact the landowner and --

17 Q. Let me rephrase the question. Since these are discussions
18 that nobody knows about, I don't think it's appropriate to
19 refer to them here.

20 The State hasn't taken any action to protect that
21 land, put conservation restrictions on it, or otherwise
22 prohibit development; correct?

23 A. Of course, one of the issues there is that the land is
24 encumbered.

25 Q. Just -- I don't mean to be unpleasant here, but just in

1 the interest of time if you could just give me a yes or no
2 answer.

3 As I understand it, there have been no -- the State
4 hasn't put any conservation restrictions on the State --
5 sorry, the boundary mountain area, any type of limitations
6 on development; correct?

7 A. That is true, the State made an effort to negotiate some
8 kind of conservation arrangement about this land, and one
9 of the barriers to that, obviously, is the encumbrance
10 that was on the land, which is the wind rights. I think
11 that is germane.

12 Q. I move to strike because you said you have no information
13 about the discussions. In the interest of time --

14 A. -- information about the discussions, but it was very
15 clear after --

16 MS. BROWNE: Mr. Chairman, I just ask that --

17 THE CHAIR: Let's move on.

18 THE WITNESS: Okay.

19 BY MS. BROWNE:

20 Q. I think you also said you don't oppose timber harvesting;
21 correct?

22 A. That's right.

23 Q. Now, it's true, isn't it, that you're on the board for
24 Americans for Maine Woods National Park; correct?

25 A. There is no such organization that I'm aware of.

1 Q. You're not on the National Advisory Committee for
2 Americans for Maine Woods National Park?

3 A. I am on the national -- I mean, I'm on the list of people
4 who have said that a National Park is a very viable and
5 useful idea, yes.

6 Q. That would include an area that encompasses much of what's
7 known as the North Maine Woods; correct?

8 A. It would include portions of the North Maine Woods, yes.

9 Q. It would not include this project area; correct?

10 A. I can't say what it would include.

11 MS. PRODAN: Mr. Chairman, I'm going to object to
12 this line of questioning because it doesn't have anything to do
13 with the project area.

14 MS. BROWNE: Well, with all due respect, we've had a
15 lot of discussion about other areas in the state, and I think
16 it is germane, and he testified he is not proposing to put this
17 area into a park; he is involved in an organization that is
18 seeking to put other areas of the state into a park, and I
19 think that is directly relevant, and I have one more question
20 on it.

21 BY MS. BROWNE:

22 Q. The Americans for Maine Woods National Park, that would
23 not allow timber harvesting within that National Park,
24 would it?

25 A. Well, you know, National Park -- this is -- I have written

1 about this rather extensively, I have the article with me
2 here, and I will be happy to put it into the record that
3 gives my views on land conservation in the State of Maine
4 and is -- there are a wide range of options, as you know,
5 for federal protection of land that ranges from national
6 parks to preserves to designated wilderness areas, and
7 those are all options that in any consideration I have
8 written about open to discussion.

9 Q. With all due respect, if you could just answer the
10 question.

11 The Americas for Maine Woods National Park on which
12 you serve on the advisory committee, that's a proposal for
13 a national park that would not allow timber harvesting;
14 correct?

15 A. National Park as far as -- I don't really know that.

16 Q. You don't know whether the --

17 A. The National Park allows any timber harvesting.

18 Q. If you don't know, that's fine.

19 A. I'm not positive about that. I cannot say. I would be
20 happy to check it out.

21 MS. BROWNE: No need. Thank you, Mr. Chairman.

22 MS. PRODAN: Mr. Chairman, could I ask Mr. Kimber a
23 couple of follow-up questions based on questions that the
24 commissioners asked?

25 THE CHAIR: Yes, go ahead.

1 MS. PRODAN: Thank you.

2 EXAMINATION OF ROBERT KIMBER

3 BY MS. PRODAN:

4 Q. You were asked by Commissioner Schaefer whether Friends of
5 the Boundary Mountains were planning to purchase the land
6 in the project area.

7 Can you explain why Friends of the Boundary Mountains
8 did not make a fund raising effort at that time?

9 A. Yeah, because there was no -- there was no willing seller
10 of land that we were aware of, and as I mentioned before,
11 earlier, the land was still encumbered and we had no -- in
12 other words, we had no prospects that a private fund
13 raising effort would serve the purpose of securing this
14 land.

15 Q. Could you clarify what you were saying concerning future
16 recreation possibilities?

17 A. Yes -- yeah, I mean, that came up in the discussion about
18 declining interest in back country recreation at this
19 point.

20 What I meant -- what I wanted to leave with the
21 Commission is whether at this particular moment the
22 Allagash or Acadia or any other National Park Service
23 declining use is not a prediction of what the future is
24 going to be, but if there is loss of land in which back
25 country recreation is taking place, we have simply

1 foreclosed that possibly.

2 The other thing I think is so important about this is
3 that Maine needs to have places where people can do these
4 things.

5 It should not be -- no Maine citizen should have to
6 go to Alaska to find land for some kind of wild country
7 experience. Kids who grow up in Maine want to be able to
8 go a few miles and find country that they can have that
9 kind of experience and that kind of training in. That's
10 my point on that.

11 THE CHAIR: Thank you, both. I think you're off the
12 hook at this point. Thank you, again, for your testimony and
13 answering your questions.

14 Moving on to the intervenor group consisting of a
15 whole bunch of organizations, Maine Audubon, Appalachian
16 Mountain Club, and the NRCM. Are you all going to be speaking
17 or is it one person?

18 MS. JONES: Three of us.

19 THE CHAIR: And you know you have 30 minutes; is that
20 going to work?

21 MS. JONES: Yes.

22 DR. PUBLICOVER: Chairman Harvey, members of the
23 Commission, good afternoon or good morning, I guess it's still
24 morning.

25 My name is David Publicover and I'm a senior staff

1 scientist representing the Appalachian Mountain Club, and I'll
2 be followed by Jody Jones from Maine Audubon, then Dylan
3 Voorhees from the Natural Resources Council of Maine.

4 The AMC supports the development of the Kibby wind
5 power project. We believe that the project will make a
6 substantial contribution to the generation of renewable energy
7 in Maine, is well sited in a location that avoids the core
8 areas of high resource value in the northern boundary
9 mountains, will not add undue adverse impacts on significant
10 natural resource values that are of concern to AMC, and through
11 the conservation agreement, will provide enhanced protection to
12 other mountain resources at greater value than those proposed
13 for development.

14 We believe that the benefits of the project outweigh
15 the inevitable and unavoidable impacts that will be created and
16 which are common to most, if not all, wind power projects
17 located in the developed high elevation areas.

18 The detailed justification for these conclusions is
19 given in our prefiled written testimony and I will not repeat
20 them here, rather I would like to take this opportunity to give
21 you our perspective on several issues raised by Robert Kimber.

22 I will say, personally, I find it a little painful to
23 be opposed because I have great respect for Mr. Kimber and the
24 other members of the Friends of the Boundary Mountains, but on
25 this issue we have a different vision of the landscape.

1 The first issue is remoteness. The AMC clearly
2 believes that remoteness is one of the jurisdiction's most
3 unique characteristics and strongly support LURC goals and
4 policies in preserving it, however; it is but one fact that
5 needs to be considered.

6 Remoteness is a relative concept. It's difficult to
7 draw a hard and fast line and say that one side of the line is
8 remote and the other is not. In one sense it reflects distance
9 from the fringe of the jurisdiction and from existing
10 developing, essentially how long does it take you to drive from
11 a particular area.

12 However, in another sense it reflects the character
13 of the local landscape and the difficulty in accessing any
14 particular point in that landscape. In important ways I would
15 say that the high ridges of the Mahoosuc Range, which are
16 relatively close to development, are more remote than the edge
17 of the Golden Road in the heart of the jurisdiction.

18 I would ask you to turn your attention to the screen.
19 Some work done by the Wildlife Conservation Society I think
20 helps illustrate this. They have undertaken a global project
21 to map what they call a human footprint, which is a relative
22 measure of the impact of human uses on the landscape based on
23 information such as population density, the presence of roads
24 and other infracture, land cover changes, nighttime light
25 pollution, and this shows the eastern United States.

1 The scale of human influence runs from relatively
2 wild down at the green and yellow into the scale to very
3 heavily developed at the darker red end of the scale.

4 What's clear is that the undeveloped lands of
5 northern and eastern Maine stand out as by far the largest
6 contiguous area of relatively low development in the eastern
7 United States.

8 This is the jurisdiction. This is what you are
9 charged with administering, and it illustrates why preservation
10 of the natural character of the landscape and remoteness are
11 such an important consideration. This is a unique and highly
12 valuable landscape, not only for the state, but in the context
13 of the entire country.

14 This is a somewhat more refined version of the
15 analysis that was done by WCS Canada, and the pattern of
16 existing development, if you know the Maine landscape, is
17 fairly clear with sort of more heavy settled areas in the
18 southern part of the state and the agricultural lands of
19 Aroostook County, and some of the major route corridors,
20 including Route 11, Route 201, Route 27.

21 And the shades of green and yellow represent
22 undeveloped land where the primary impact is from timber
23 management and logging roads. Essentially this starts to
24 define the remote parts of the jurisdiction, tempered somewhat
25 distance from roads and settlement.

1 I'd like to point out that certain areas, especially
2 down in here along the Longfellows Mountains or the Appalachian
3 Trail Chain, from the Mahoosucs, the west high mountains, the
4 Moxie and from Bald Mountain, Bald Pond areas are relatively
5 close to development; but, again, you can circumvent these
6 areas on highways. But they are among the wildest and most
7 natural parts of the jurisdiction. I would consider these
8 areas what I might call locally remote or mostly wild.

9 So this kind of illustrates why I think, especially
10 with regard to wind power, adjacency may be problematic.

11 When we overlay the Class 4 wind resource from the
12 true wind data on this map, it's clear that much of the
13 strongest wind resource in the state -- especially in the
14 jurisdiction -- is located in areas that would be considered
15 remote, and we have again the areas stretching from the
16 Mahoosucs to Bigelow, the northern boundary mountains that were
17 discussed, this is the Coburn Mountain area, the high peaks of
18 the 100-mile wilderness, Baxter State Park.

19 Now, there are some areas that at this scale don't
20 show too well, but there are some Class 4 wind areas in more
21 heavily settled areas primarily in the organized towns of
22 southern Oxford and Franklin County near the Androscoggin River
23 Valley.

24 So the boundary mountains regions, we certainly
25 believe that the entire boundary mountains regions qualify as

1 remote and it's really only the presence of Route 27 that
2 provides some local attenuation of that remoteness.

3 However, to hold that this entire area should be off
4 limits to development, to wind power development, based on the
5 remoteness criterion would create a stand that would
6 effectively put much of the jurisdiction off limits to wind
7 power development. Given the need for renewable energy
8 development, we are not prepared to do this.

9 When we look at the boundary mountains region closer,
10 it's apparent to us that the Kibby Range, which would be the
11 site of most of the turbines in the project, are among the
12 least remote parts of this northern boundary mountains due to
13 their proximity to Route 27, and I've had the opportunity to
14 hike up to the summit of the Kibby Range, and I actually found
15 it to be one of the most easily accessed mountains that I've
16 ever climbed.

17 The Kibby Mountain turbines up in this area are
18 certainly somewhat more remote and would definitely qualify as
19 remote by any definition. However, we do not believe that this
20 should override all other factors involved in considering the
21 project.

22 Within this region these area really lie outside what
23 we would consider the core larger high elevation areas that are
24 more wild and less fragmented.

25 Secondly, Mr. Kimber quotes from AMC Maine Mountain

1 Guide as to the scenic value of the view from the summit of
2 Kibby Mountain. There's no question that the project will have
3 an impact on this view. However, in evaluating the project we
4 consider not only the impact itself but the relative value of
5 the resource that is affected. We give greater weight to
6 impacts on major trail systems and high recreational use areas
7 than we do to more locally significant resources.

8 We do not mean to degrade the value of the Kibby
9 Mountain Trail, as we consider these local trails to be an
10 important component of the recreational landscape, however, we
11 are not prepared to draw a scenic exclusion zone around every
12 secondary trail in this state.

13 Third, Mr. Kimber cites the Northern Forest Alliance
14 of Wild Lands Report as to the value of the area proposed for
15 development. These areas were delineated by the Alliance about
16 a decade ago to bring attention to large areas that we believe
17 should be a focus for conservation attention and over time they
18 have served this purpose well.

19 However, delineating these areas and the NFA's vision
20 for them, the potential for wind power development received
21 little consideration. Neither the NFA as a whole or the Maine
22 caucus of the NFA has ever established a position regarding
23 wind power development in these areas, and that is intentional.
24 There's simply no consensus among the Alliance on this issue.

25 They were never intended to be, and are not suitable

1 for use, as de facto wind power zoned areas. They are far from
2 course for this purpose. There are areas outside of the wild
3 lands that I would consider unsuitable for development and
4 areas that I would consider suitable.

5 The same can be said for the information from the
6 Northern Forest Inventory document developed by AMC and Maine
7 and New Hampshire Audubon. The report was issued in 1993 and
8 represents our earliest attempt to understand resource
9 distribution across this landscape. However, even more than
10 the wild lands report, this analysis is far too coarse to serve
11 as a useful guide for detailed land use planning or the
12 evaluation of individual properties.

13 The area Mr. Kimber cited -- P-D-1 -- extends from
14 Moosehead Lake to the Canadian border, and from boundary Bald
15 Mountain down to The Forks. Within this area there is great
16 variation as to resource value, level of development, includes
17 organized towns and settlements.

18 The decision to support this project was not easy for
19 AMC. We recognize that it will have impacts but believe that
20 the benefits of the project outweigh these impacts. We also
21 recognize that reasonable people in possession of the same
22 information will reach different conclusions as to where wind
23 power is acceptable.

24 Based on our evaluation and our organizational
25 values, this project falls on the acceptable side of the line.

1 And we thank you for the opportunity to testify.

2 Now I'll give it over to Jody.

3 MS. JONES: My name is Jody Jones. I'm a wildlife
4 ecologist with Maine Audubon, and I appreciate the opportunity
5 to come before you today to talk about the TransCanada project.

6 I would just like to add, I, too, find it difficult
7 to be on the opposite side of all the folks sitting at the
8 Friends of the Boundary Mountains' table, whom I've worked with
9 at different times.

10 In looking at the wildlife impact, there are two
11 basic areas of concern that we looked at in determining where
12 to draw the line, which is what I think what we're all
13 struggling to do. The potential for collision mortality and
14 the habitat loss due to degradation and loss from footprint.

15 In looking at the habitat loss and degradation, what
16 I looked for in the Kibby project was have they avoided the
17 highest valued habitat species and the fact that they put
18 together a mitigation package was beneficial, as well, and that
19 mitigation package included Peak C and D and funding for a high
20 mountain area resource value.

21 In terms of the Bicknell's thrush, which we've talked
22 a lot about in the last month or so, minimizing the risks to
23 this special bird, again, I was looking for the applicant to
24 avoid the higher elevation areas, which are known to have the
25 characteristics for the birds and also the place that I feel is

1 really important, that there should be no turbines within
2 current breeding territories.

3 The TransCanada project put 12 of their 46 turbines
4 below 2007 hundred feet; 36 of the 46 turbines are below 3000
5 feet; and one turbine was above 3200 feet.

6 They also removed the turbines that were proposed
7 initially at Kibby Mountain from the plan, and no breeding
8 birds were found either on Kibby on the remaining portion of
9 the A Series and the B Series, and even though they have done
10 five surveys to try to locate the birds, they had found some
11 early on previously, but those were likely to be either birds
12 that were investigating the area and didn't find the
13 appropriate habitat or migration.

14 In the additional protection in the C and D weighed
15 heavily where Bicknell's thrush were identified as part of the
16 avoidance.

17 I don't think I have to talk too much about northern
18 bog lemming except that in trying to minimize any of the
19 impacts, looking for the high elevation sphagnum matts to be
20 completely avoided and to place any turbine streams outside
21 areas that would have hydrological impact, and to protect
22 upland foraging areas.

23 This is the graphic that's in the application. It's
24 difficult to see, but the northern bog lemming habitat in the
25 sphagnum wetlands are all -- the project area is all downslope

1 from the area which would reduce and minimize any impacts from
2 the project on the hydrology of the northern bog lemming
3 habitat and upland area, and it was outside the entire sub
4 watershed also contributing to protection and minimizing impact
5 of the northern bog lemming, and also within that area have
6 kept out of the area which is the foraging habitat for that
7 species.

8 Minimizing migratory impacts to migratory birds and
9 bats, there are issues associated with this, which made it
10 difficult to assess, and I think you've heard a lot about that
11 already.

12 We have limited data, the National Academy of
13 Sciences' report on impacts to wildlife from wind power
14 projects indicated, there are only 14 studies currently
15 available at wind power sites that look at mortality, so we
16 don't have a lot of information available to go on.

17 Forested ridges have been identified as higher risk
18 sites in that same report, which indicates to me that every
19 project here in Maine needs to do before- and after-impact
20 studies and use standard methodologies. And then, once those
21 studies have been done, we should try to avoid the highest use
22 areas for a variety of species.

23 Okay, in assessing the risks I wanted to make sure
24 TransCanada used standardized methodologies and to avoid the
25 highest use sites for raptors, neotropical migrants, bats, and

1 rare species.

2 In terms of the migratory birds and bats, they did
3 avoid -- none were identified in that particular habitat. The
4 raptor passage rate was low abundance compared to other
5 projects; bats were low abundance; but what about neotropical
6 migrants?

7 In assessment of the risks, I wanted to make sure
8 that the methodology that they used, again, were standard, that
9 the level of effort that they used was appropriate. We
10 determined that it was. That the timing, that they captured
11 the relevant time periods, and results were, from our
12 perspective, that this site has what I would characterize as a
13 moderate passage rate, 300 targets per kilometer per hour, and
14 the percent was below the rotor swept area, which we measured
15 was about 14 percent.

16 It was also important to Maine Audubon that because
17 we do not know very much about the impacts of migratory
18 species, what we do know about the lighted communication
19 towers, which are -- some of them, I'm not sure about the ones
20 that Dr. Wilson indicated -- but some of them are 1500 to 2000
21 feet tall, reach higher up into the area, and are different --
22 they're just different but they do indicate that there may be a
23 problem.

24 So what's really important to us was that they had
25 post construction studies, that those studies used standard

1 methodologies that IF & W agreed with, and also that they put
2 together a decommissioning plan that called for removal of
3 above-ground structures, a guarantee of funding by the
4 applicant, and the cost determined by an independent third
5 party.

6 So in closing, Bicknell's thrush breeding locations
7 were avoided, the northern bog lemming, it wasn't its core
8 habitat and forging area. They did the appropriate studies and
9 found relatively low use for some the species that are of
10 concern, and a migrant level for the northeast, and they put
11 together a mitigation package, post contraction for the
12 decommission.

13 Thank you for your time.

14 MR. VOORHEES: Good morning. My name is Dylan
15 Voorhees. I'm the clean energy director for the Natural
16 Resources Council of Maine.

17 I want to start by thanking the commissioners for
18 their continuing and remarkable commitment to hearing about
19 these issues. These are not easy or simple decisions, and we
20 really do believe that.

21 A brief overview of this project. We believe it
22 strikes an even better balance of benefits over impacts than
23 the previous Kenetech wind farm. We believe the project has no
24 undue adverse impacts on existing uses and resource values. We
25 believe it meets a clear demonstrated need, both

1 environmentally and economically, provides a very substantial
2 clean energy benefit, and includes significant land mitigation.

3 While Kibby, we believe, is definitely its own
4 project, the comparison to Kenetech is a natural one. NRCM
5 looked very closely at the balance of impacts and benefits of
6 the Kenetech project in the early '90s, and we have looked very
7 closely at the Kibby project. We believe the balance has
8 significantly improved since then, which is why we are strongly
9 supporting this project.

10 The environmental footprint of this project is
11 dramatically smaller than the Kenetech project permitted in
12 1995. We believe it's especially better in terms of the P-MA
13 zone, for example, requiring 14 miles of new roads instead of
14 40. LURC review criteria, we believe, has not changed
15 significantly since that project was permitted.

16 The most dramatic change from Kenetech to Kibby is
17 the scope of impact across the region's landscape. This map
18 shows in red those areas that were previously proposed for
19 turbines and in squares where the Kibby project would be
20 located.

21 The Kenetech project would have climbed all the way
22 up and over the peak of Kibby Mountain and covered peaks like
23 Tumbledown it and Three-Slide Mountain. These areas are
24 closer, as Mr. Publicover testified, to a core of a remote
25 roadless area with rare identified natural communities.

1 I'm not going to go through this chart in detail but
2 it provides further illustration of this comparison between the
3 two projects.

4 Now, some things have changed since Kenetech
5 prompting NRCM and obviously the Commission to take a fresh
6 look. Some of these things include today a greater
7 understanding of the negative environmental impacts of fossil
8 fuels and the need for clean energy. In some cases we have
9 more detailed or updated wildlife and natural community
10 information, for example, better mapped natural communities, a
11 greater knowledge about the ecology of some threatened species,
12 and thought it's limited, more knowledge about the impacts of
13 wind power.

14 In addition, the Kibby project uses different larger
15 turbines. These modern turbines in fact are what enable the
16 project to have far smaller impacts while delivering a
17 significant quantity of clean energy. They are much taller,
18 there can be no doubt about that.

19 Because the blades are set high above the trees, the
20 project actually doesn't require the clear cutting of the top
21 of the ridgelines to harness wind power, which would have been
22 required for the smaller turbines at Kenetech.

23 As I said, obviously it's important to take a fresh
24 new look at this project, and one of the most important tasks,
25 we believe, is to evaluate impacts on existing uses, including

1 recreation.

2 First, we believe that most existing uses will
3 experience little to no impacts, such as forestry, motorized
4 recreation; and second -- and we've been over this so I won't
5 go into it in detail -- the impact on primitive recreation we
6 believe will be relatively small mostly because this is not an
7 area that attracts significant numbers of hikers, campers,
8 hunters seeking a wilderness experience.

9 It is used by a small number of users, as we've
10 discussed. This small level of off-trail use does not rely on
11 any special resource activity, and we do not believe it
12 precluded wind development.

13 The third, it is undeniable that the project will
14 have an impact on scenic views from Kibby Mountain. Similarly,
15 visibility from a beautiful but secondary trail should not
16 preclude wind power. If it did, it would probably preclude
17 wind power in most of the jurisdiction and perhaps even
18 development in general.

19 Remoteness as we know is difficult to define, and
20 there's no question that the western mountains are an important
21 and special region. The Commission is not being asked to
22 rezone the western mountains or the boundary mountains. If the
23 definitions and applications of remoteness and resource
24 protection proposed by some are applied across western Maine,
25 we believe it would prevent Maine from obtaining its renewable

1 power goals, certainly doing so at any reasonable cost, and we
2 believe this is contrary to the Comprehensive Land Use Plan,
3 which calls for balance and appropriate energy resource
4 utilization.

5 I think the bottom line is we do not believe that
6 this wind power project is incompatible with preserving a sense
7 of remoteness in the region or with maintaining significant
8 opportunities for back country recreation.

9 I think there probably is relatively little debate
10 about the demonstrated need for wind power in Maine. The
11 finding of the 1995 Commission, some of which are quoted in my
12 testimony here, I think are clear.

13 Again, this project, while deserving a fresh look, we
14 believe that the need has actually increased. As you know,
15 scientists from the United Nations down to the University of
16 Maine are telling us that the threat of climate change is real
17 and is real for LURC jurisdiction. As a result, Maine's
18 legislature has passed as recently as this year numerous bills
19 which call for an increase in renewable power and wind
20 development in particular.

21 I'd like to point out that the renewable portfolio
22 standard in Maine is not dissimilar from the policy in Quebec
23 called an RFP that called for a significant amount of wind
24 power to be developed. It's slightly different approaches of
25 how that happens but a similarly set, a very specific goal for

1 the State, in terms of the development of clean renewable
2 energy.

3 We hope that the Commission appreciates that what
4 matters to Maine is not simply a number of wind power projects
5 but the actual amount of clean energy. This project has a very
6 large clean energy benefit when compared to other wind projects
7 or the biggest hydropower dams in the State. These hydropower
8 dams are shown here, and the Kibby project in yellow, and this
9 is, again, actual generation, not capacity.

10 This project would produce two to three times more
11 energy than Mars Hill or Stetson or Black Nubble. It's similar
12 in actual energy output to the second largest dam in the state,
13 Wyman Hydro.

14 So we believe Kibby will play a significant role in
15 helping Maine meet its need for new clean energy.

16 So the environmental benefits of wind power are real
17 and meaningful, we think that is clear. There is no silver
18 bullet. Many approaches are needed and a broad energy strategy
19 is needed.

20 We believe this project plays a role in an existing
21 broad energy strategy in Maine, a strategy that includes carbon
22 regulations and RPS law, a comprehensive plan for climate
23 action. We have an energy strategy. We believe that clean
24 energy should become a critical strategy for the long-term
25 protection of the LURC jurisdiction and its values as well.

1 So briefly, in summary, the project, we believe, has
2 no undue adverse impacts, it provides a significant amount of
3 clean generation, clean power, which will help us reduce our
4 dependence on fossil fuels, and in short, we believe it is in
5 the best interest of the people of Maine.

6 Thank you very much.

7 THE CHAIR: Thank you. Is that -- everybody has
8 spoken?

9 MS. BURNS GRAY: Mr. Chairman, we would like to offer
10 Mr. Publicover's slides as an exhibit.

11 THE CHAIR: Okay, you may do that. Since it's close
12 to 12 o'clock, I guess we'll take our lunch break now and try
13 to come back around 12:30, and we'll do cross-examination by
14 whomever -- TransCanada, obviously, has the first crack at you.
15 We'll go from there. Let's get back around 12:30, please.

16 (There was a luncheon break in the hearing at
17 11:57 a.m. and the hearing resumed at 12:39 p.m.)

18 MS. BROWNE: Thank you, Mr. Chairman. There were
19 five PowerPoint presentations during TransCanada's presentation
20 that we provided copies to everybody of. I won't try to number
21 them because I know you have your own numbering system.

22 There was also an October 1st letter to the
23 Commission and the parties that we referred to as supplemental
24 application material, which was circulated yesterday.

25 We have also -- would like to move in the four

1 PowerPoint presentations that were provided to the Commission
2 on August 1st. That included the PUC material, the DEP's
3 material, Office of Energy Independence and Security, and the
4 ISO material. That's been provided to the parties now, as
5 well, and we have also done 11-by-17 versions of the poster
6 boards just so that they're in the record as well.

7 The two exhibits that I used in the cross of Bob
8 Kimber, we would also like to move into the record. I don't
9 have of copies of those but I will provide copies as well.

10 I think that's it.

11 THE CHAIR: Thank you.

12 MS. PRODAN: For Friends of the Boundary Mountains,
13 the only exhibits that we have to move in at this time are the
14 PowerPoint presentation and the written statement by
15 Mr. Kimber. We've already provided those copies.

16 THE CHAIR: Is that statement different than his
17 direct testimony, then, of the rebuttal?

18 MS. PRODAN: It contains the same information but he
19 wrote it so that he could read it.

20 THE CHAIR: What he said here today is what you're
21 referring to?

22 MS. PRODAN: Yes.

23 THE CHAIR: That's fine. So that's all in the
24 record.

25 All right, any other intervenors that have exhibits

1 that need to go into the record, it's time to do it now.

2 We're going to begin the cross-examination of this
3 group of witnesses by the applicant. Unless you're waiving a
4 set time.

5 MS. BROWNE: I am.

6 THE CHAIR: So I guess we move to the Friends of the
7 Boundary Mountains. I notice, Pam, we've given you 70 minutes.
8 I assume you plan to use all of that?

9 MS. PRODAN: Yes, Mr. Chairman, I do plan to use 70
10 minutes.

11 THE CHAIR: All right. Please proceed.

12 EXAMINATION OF JODY JONES

13 BY MS. PRODAN:

14 Q. Good afternoon, Ms. Jones.

15 A. Good afternoon.

16 Q. If you could define Maine Audubon's area of interest in
17 these wind power proceedings in one or two words, would it
18 be wildlife? In one or two words.

19 A. I think Maine Audubon brings a special expertise in the
20 wildlife and wildlife habitat area if that answers your
21 question.

22 Q. Thank you. Maine Audubon is not particularly interested
23 in protecting a remote or undeveloped area, just for the
24 sake of that, is it?

25 A. Well, I would say that we participate in the Northern

1 Forest Alliance and that, you know, we're part of those
2 discussions as well.

3 Q. But these are not values -- remote and undeveloped is what
4 I'm talking about -- that Maine Audubon has in its mission
5 or its purpose; is that correct?

6 A. I don't believe it is in our purpose or mission.

7 Q. Was it a condition of your support for this project that
8 TransCanada agree to conditions on the development in the
9 project area?

10 A. Can you elaborate on that?

11 Q. Yes. Maybe I should just rephrase that slightly.

12 Was it a condition of your support for the Kibby
13 project that TransCanada agree to conditions on the wind
14 power development?

15 A. Well, we worked with TransCanada over several months, and
16 during that time they addressed a number of our
17 site-specific concerns.

18 Q. Would Maine Audubon have given its support to this project
19 if TransCanada had not agreed to address your concerns?

20 A. Would we -- okay, there's a negative in there. Basically
21 if TransCanada had not met our concerns, we would not be
22 supporting the project today.

23 Does that answer your question?

24 Q. Yes. That's your statement then?

25 A. Yes.

1 Q. Did you say on Page 5 of your prefiled direct testimony
2 that it was important to Maine Audubon to have a strong
3 decommissioning plan because you don't want ghost turbines
4 to continue to pose a hazard to migratory wildlife?

5 A. Yes.

6 Q. What do you mean by continue to pose a hazard?

7 A. Well, this is an important piece for Maine Audubon because
8 although we don't have information on specific, how these
9 particular turbines -- let me just start over.

10 Out in California at Altima Pass, there are turbines
11 that are continuing to cause problems for birds out there.
12 And so we recognize that this technology, as it moves
13 forward in the east, if -- that it's important that if for
14 some reason birds are being killed by these turbines that
15 they -- we recognize that there are certain risks of
16 any -- any structure up in that area, and we want to
17 reduce those risks to the maximum extent possible, so
18 decommissioning plans are part of that, yeah.

19 Q. So you're acknowledging that there is going to be a risk
20 from the structures while they're operating also; is that
21 correct?

22 A. That's right.

23 Q. When you -- excuse me. When Maine Audubon evaluates a
24 wind power project, does Maine Audubon actually calculate
25 the risk to birds based on what the projected bird kills

1 could be?

2 A. No, I'm not aware of anybody who has the type of data
3 necessary to do that level of risk assessment.

4 What we do is try to assure that the applicant has
5 provided the necessary preconstruction assessments and
6 follows standard methodologies because without those, we
7 cannot determine the correlation between the mortality and
8 the avian use, so that's of prime importance to us.

9 Once those assessments are conducted, we look at that
10 relative to what we do know in terms of other project
11 areas and determine whether or not the passage rate and
12 the use of the area is -- how it relates to the other
13 projects.

14 I will grant you that the data in that area is
15 limited. The National Academy of Sciences has 14 studies
16 indicating the mortality at wind power facilities but
17 we're starting to get more information annually on behalf
18 of passage rate and how that might relate to mortality but
19 we don't have it yet.

20 Q. Has Maine Audubon ever determined a level at which bird
21 mortality would be unacceptable?

22 A. A level of mortality, no, from wind power projects?

23 Q. Yes.

24 A. No.

25 Q. In terms of the standard of no undue adverse impact that

1 has to be met for approval, what would you consider to be
2 an undue level of avian mortality?

3 A. Well, I think -- I don't believe -- I think the way to
4 answer that best is that once we know what species are
5 being impacted and at what levels, we need to determine
6 whether or not that's going to effect the regional
7 population first.

8 Q. Do you know if TransCanada has done avian or bat studies
9 in Quebec at their wind project?

10 A. I'm aware that they've done some in the Gaspê.

11 Q. Have she offered to share any data with you on that?

12 A. They have, and I did receive it but it's in French. That
13 was a problem for me.

14 Q. Do you think that might be because mortality might be
15 high?

16 A. No, I don't think so, but that's just my personal opinion.
17 I don't think -- I don't know how to answer that one.

18 Q. Were the numbers in French?

19 A. Well, I couldn't --.

20 Q. Would you agree that Bicknell's thrush is what is called a
21 disturbance specialist?

22 A. Yes.

23 Q. Regarding the presence or absence of Bicknell's thrush,
24 there could be ice storms or other events to create the
25 scrub needed in the Kibby project area, couldn't there?

1 A. I looked at that in terms of the elevation of the project.
2 Those types of activities are much more prevalent at
3 higher elevations, so my answer to that is that my belief
4 was that there was less likelihood of creation of that
5 kind of habitat at the elevations where the proposed
6 project occurs. That, in addition to the protection of
7 the C and D areas, which were at higher elevations with
8 documented Bicknell's thrush occurrence led me to the
9 conclusion of no undue adverse impact.

10 Q. In fact, Bicknell's thrush were documented on the Kibby
11 Range and in a regenerating clearcut, wasn't it?

12 A. Yes, it was, outside of the project area.

13 Q. Are you aware of the Vermont Institute of Natural Science
14 computer model for determining suitable Bicknell's thrush
15 habitat?

16 A. I am.

17 Q. And does not the elevation at which Bicknell's thrush is
18 predicted to be found decrease with an increase in
19 latitude?

20 A. That's correct. That's a landscape level model, and what
21 I typically look for in these projects is site-specific
22 information to determine where we would draw the line.

23 Q. Wouldn't you say that it's likely during the next 25 years
24 Bicknell's thrush habitat will be created in the areas
25 proposed for development?

1 A. Could you say that again, Pam.

2 Q. Wouldn't you say that it's likely, based on what you know,
3 that during the next 25 years Bicknell's thrush habitat
4 will be created in the areas proposed for development?

5 A. From cutting or from windthrow?

6 Q. I'm talking about the wind power development areas.

7 A. Oh, from the actual project area itself? I'm confused,
8 I'm sorry.

9 Q. I can rephrase that so maybe it's more clear.

10 Wouldn't you say that it's likely that during the
11 next 25 years Bicknell's thrush habitat will be created by
12 whatever causes in the areas proposed for the Kibby
13 development?

14 A. Well, you know, as I stated before, I think the lower
15 elevations make it less likely that natural disturbance
16 will be causing those types of disturbances to create
17 Bicknell's thrush habitat.

18 Q. Where the Bicknell's thrush was documented on Kibby Range,
19 was that on top of the ridge or at lower elevation on the
20 ridge?

21 A. I'd have to look that up. I could point to it on a map.
22 It was in a small isolated patch that was observed I think
23 a couple of times in the spring and not again.

24 Q. So you weren't paying attention to where on the mountain
25 those occurrences were when you saw the testimony --

1 A. Like I said, if I had the map in front of me I could point
2 to it. So I did pay attention.

3 Q. You didn't notice whether it was on the top of the range
4 or on --

5 A. It was on the shoulder.

6 Q. Isn't it true that the Bicknell's thrush population are
7 known to fluctuate because of the red squirrel population
8 fluctuations?

9 A. Yeah, red squirrels are a pretty heavy predator of
10 Bicknell's thrush nests.

11 Q. So in some years there might be very few Bicknell's thrush
12 observed; is that correct?

13 A. Well, they would be attempting to nest, so you would
14 actually observe them, but the productivity would be down.

15 Q. Isn't it agreed by ornithologists that any documented
16 gray-cheeked thrush prior to 1995 occurring in Maine was a
17 Bicknell's thrush?

18 A. Any documented gray-cheeked thrush prior to 1995 was a
19 Bicknell's thrush?

20 Q. Yes.

21 A. Occurring in Maine?

22 Q. Yes.

23 A. I think that's probably likely. I mean, that's when the
24 species was separated from the gray-cheeked thrush.

25 Q. Thank you. Do you know everything now that you need to

1 know to be able to properly conserve Bicknell's thrush
2 habitat, or will you learn more?

3 A. I'm sure I'll learn more. I'm sure everybody will. I
4 think there's a lot to learn about this particular
5 species.

6 Q. Based on what you said in your PowerPoint concerning
7 minimizing risks, has anybody done a credible analysis as
8 to whether the benefits of wind power development outweigh
9 the costs of high mountain development? And this is the
10 benefits for Bicknell's thrush versus the cost for
11 Bicknell's thrush.

12 A. No.

13 Q. So it's your opinion that that study just hasn't been done
14 yet; is that correct?

15 A. I'm -- I'm not sure what you mean. I'm sorry.

16 Q. Okay. Has anybody done a credible analysis as to whether
17 the benefits of wind power development outweigh the costs
18 of high mountain development on Bicknell's thrush?

19 A. I think what you're talking about is the benefits that are
20 accrued from decreased emissions and mercury that's going
21 to help Bicknell's thrush versus building within their
22 habitat, is that what you're trying to say?

23 Q. Yes. I'm sorry I didn't make that clear.

24 A. I understand now.

25 Q. Do you think that study has been done?

1 A. No.

2 Q. Thank you.

3 A. You're welcome.

4 Q. Regarding off-site mitigation in the Mahoosucs that is
5 proposed under the agreement with TransCanada, can you
6 explain how this will help the organisms, such as birds,
7 that encounter the development in the Kibby project?

8 A. No, I don't think that -- I would probably point to the C
9 and D area as more relevant than the Mahoosuc area.

10 Q. I'll ask about that.

11 How does maintaining the status quo basically on
12 Kibby Ridge C and D mitigate when there's no improvement
13 over what's there now?

14 A. Well, the certainty that there will never be wind power
15 generated on those ridges is the benefit in our
16 estimation.

17 Q. Does the agreement with TransCanada include a -- strike
18 that.

19 Does the agreement with TransCanada preclude
20 TransCanada from building a transmission line in Kibby
21 Township or Skinner Township?

22 A. I don't think it does.

23 MS. PRODAN: Thank you. Good afternoon, Dave.

24 DR. PUBLICOVER: Good afternoon.

25 EXAMINATION OF DAVID PUBLICOVER

1 BY MS. PRODAN:

2 Q. Isn't it true that roadless areas are shrinking in Maine
3 generally speaking?

4 A. That's true.

5 Q. And they're smaller now than they were 10 years ago; isn't
6 that correct?

7 A. That's probably correct, yes.

8 Q. Is there any reason why they won't continue to shrink?

9 A. I think in some places they will continue to shrink.

10 Q. You said in your testimony -- or in your presentation this
11 morning on balance you feel the benefits of this project
12 outweigh the harm; is that correct?

13 A. I believe I said that, yes.

14 Q. On Page 3 of your prefiled testimony you say, "As a
15 condition of this support, we have entered into a
16 conservation agreement with the applicant that will
17 provide additional off-site protection to high value
18 mountain resources, both within the vicinity of the
19 project and elsewhere; correct?"

20 A. Yes.

21 Q. So if the agreement weren't in place, you wouldn't be
22 giving your support to the project, would you?

23 A. If the agreement wasn't in place, I can't say what our
24 position would be. We certainly would not oppose it
25 because the mitigation presumes that we've already

1 determined that it's an appropriate site.

2 Whether our position would be one of qualified
3 support, neutrality, would require some fairly hard
4 thinking on our part and we never had to get to the point
5 of doing that. But it would not have led us to oppose the
6 project.

7 Q. The intervenor's agreement doesn't preclude TransCanada
8 from building a transmission line under its easement
9 running with the land to tie in other mountain ranges
10 outside of the ridges in the Kibby D and C project area,
11 does it?

12 A. I'm not sure it prohibits building other transmission
13 lines. I'd have to look at the agreement, but I believe
14 we have a provision that says that the existing
15 transmission line that they're proposing on this will not
16 be used to transmit power from additional sites in the
17 Kibby and Tumbledown Mountain area.

18 Q. Did you submit that with your testimony?

19 A. It was submitted as part of TransCanada's testimony.

20 Q. Okay. Is there any protection in the agreement you signed
21 with TransCanada against further roads?

22 A. In the C and D areas?

23 Q. Anywhere.

24 A. No, the agreement -- Kibby only has the right in those
25 other -- the remainder of the A, C and D areas. They only

1 have the right to construct wind power.

2 If Plum Creek wants to build roads in those areas,
3 they have the right to do so. That was one reason why we
4 extended the mitigation to an off-site area because
5 TransCanada did not provide complete and full protection
6 of those A, C, and D areas.

7 Q. Does the intervenor's agreement with TransCanada prohibit
8 subdivision in the Kibby project area?

9 A. No, it does not.

10 Q. Then does it prohibit development other than wind?

11 A. No, it does not.

12 Q. Then this is not a conservation easement, is it?

13 A. It's not a conservation easement, no.

14 Q. But that's how you referred to it in your testimony, is it
15 not?

16 A. I think I called it a conservation agreement.

17 Q. On Page 3 of your testimony, could you look at the top
18 line? Do you not state that --

19 A. Are you talking about -- okay, my prefiled testimony,
20 Page 3 --

21 Q. Yes.

22 A. -- entered into a conservation agreement with the
23 applicant, yes.

24 Q. It's a conservation agreement but not a conservation
25 easement; is that right?

1 A. There's two parts. There's TransCanada's agreement to
2 permanently forego development of the A, C, and D areas
3 and it's a contribution towards the funding of a
4 conservation easement on the Stow Mountain parcel.

5 Q. But in the boundary mountains --

6 A. In the boundary mountains --

7 Q. -- there is no conservation --

8 A. It is not an easement.

9 Q. -- correct? In fact, would you agree that it would not be
10 possible for anyone to purchase a conservation easement or
11 the underlying lands in Kibby and Skinner Townships
12 without extinguishing the wind rights and the transmission
13 rights that haven't been extinguished to date; correct?

14 A. Say that again.

15 Q. You agree that it would not be feasible for anyone to
16 purchase the underlying lands or a conservation easement
17 in Skinner and Kibby Townships without extinguishing the
18 wind rights and the transmission rights that are there?

19 A. No, I don't agree with that. You can have a conservation
20 easement that would recognize existing outstanding rights
21 that would not be extinguished by the easement for the
22 purpose.

23 Q. In other words, it's your position that an area could be
24 developed for, let's say, a transmission line for wind
25 power and still qualify as a conservation easement area?

1 A. Conservation easements can cover any range of things. You
2 can have easements that prohibit one specific use, you can
3 have easements that prohibit most uses.

4 Conservation easement is a highly variable instrument
5 that can be tailored to cover whatever rights the parties
6 are interested in conserving.

7 You could have a conservation easement that allowed
8 the construction of a transmission line, yes.

9 Q. So you think that there could be a conservation easement
10 in Skinner and Kibby Townships even after wind power would
11 be developed there by TransCanada; is that your position?

12 A. Well, I suspect the easement would not cover the areas
13 that had been developed.

14 Q. But it's your position that the area surrounding the
15 development could be protected by a conservation easement
16 even if there were wind turbines developed as is proposed?

17 A. You could have an easement that covered the undeveloped
18 lands around the wind power proposal, yes.

19 Q. Is it your position that conservation values are not
20 impacted by the development --

21 A. That's not my position.

22 Q. -- such as what's proposed?

23 A. That's not my position at all.

24 Q. In order to have a conservation easement, there would have
25 to be some conservation value to the easement, would there

1 not?

2 A. There would be.

3 Q. Do you think that the construction of the Kibby project --
4 and the transmission line for it -- will increase or
5 decrease the likelihood that other mountains in that area
6 would be proposed to be developed for wind power?

7 A. I couldn't say.

8 Q. Would you see that as a positive development if other
9 areas were proposed to be developed for wind power in that
10 region?

11 A. It depends on what other areas. I think in general I
12 would not like to see a significant expansion of wind
13 power development in this region because I think there may
14 be some additional kind of fringe areas within that
15 region; but certainly expansion into the core higher
16 elevation areas I would consider that to be a negative
17 development.

18 Q. So is that how you're defining significant just staying
19 out of the core area?

20 A. I think significant is a relative concept. I think there
21 are some parts of the boundary mountains that are more
22 valuable than others.

23 Q. Are you arguing in this proceeding for a lowering of the
24 protection afforded by the P-MA subdistrict designation?

25 A. No, I don't believe I am.

1 Q. I thought you just implied that there's some areas that
2 are more valuable than others in the boundary mountains?

3 A. There are.

4 Q. Do you not think that all of those elevations over 2700
5 feet are afforded some protection under the P-MA
6 designation?

7 A. I think they are afforded some protection, yes; but I
8 don't think that protection extends to a complete
9 prohibition on wind power development.

10 Q. But you're in favor of ranking mountains in the P-MA
11 subdistrict, in other words; isn't that right?

12 A. Yes, that's some of the analytical work we've done has
13 been aimed at sort of understanding the relative value of
14 different mountain ridgelines. Yes.

15 Q. Isn't it true that you would like to see some areas in the
16 P-MA subdistrict with higher -- what you consider to be
17 higher resource values continue to be protected while
18 others could be developed with wind power?

19 A. Our position is that we think that it has been that LURC
20 should adopt a more refined definition of allowable uses
21 in P-MA zones such that some would be designated as off
22 limits to wind power and others would be available for
23 consideration.

24 I don't think that's different from the type of
25 approach that LURC has taken with their management

1 classification of lakes. Some lakes have been designated
2 as a higher value and there are greater restrictions on
3 development on those lakes.

4 Q. At this time is there any mention of mitigation or
5 compensation in LURC's regulations with regard to the
6 development proposed in D-PD zones?

7 A. No, there is not.

8 Q. But you're advocating that that be considered as a
9 mountain concept type of proposal?

10 A. Yeah, we actually think what we've proposed is in some way
11 fairly similar to a lake concept plan.

12 It is our position that any rezoning of a P-MA zone
13 for wind power or other development would require
14 compensatory mitigation in order, by our interpretation,
15 in order for the substantially equivalent protection
16 clause to be met.

17 Q. And you feel that this type of mitigation could take place
18 off site, do you?

19 A. I think in some cases it has to.

20 Q. In one situation here with the agreement with TransCanada,
21 you actually are supporting some compensation or
22 mitigation that is close to the project; is that correct?

23 A. Yes.

24 Q. Let me ask you --

25 A. Let me just say that our original proposal for

1 TransCanada -- our original goal was to focus the
2 mitigation entirely within the northern boundary mountains
3 region but that proved to be not practical.

4 Q. Let me ask you, how does maintaining the status quo on
5 Kibby Ridge mitigate when there's no actual improvement
6 over what's there now?

7 A. I would echo what Jody said that prohibition of future
8 wind power development, I believe, is a benefit and
9 enhanced protection over what would be allowed now.

10 Q. So you do believe that this project will be permitted, do
11 you not?

12 A. Excuse me?

13 Q. You do believe that this project will be permitted;
14 correct?

15 A. I have no idea. I can't read the minds of the Commission.

16 Q. So this is just a back-up plan in case they do approve it?

17 A. If they don't approve it, there is no mitigation because
18 there's no impact.

19 Q. But if they do approve it, then your plan is that at least
20 some areas would not be rezoned for wind power; is that
21 right?

22 A. Yes.

23 MS. PRODAN: Mr. Voorhees, good afternoon.

24 MR. VOORHEES: Good afternoon.

25 EXAMINATION OF DYLAN VOORHEES

1 BY MS. PRODAN:

2 Q. You attached to your testimony some testimony of
3 Dr. Jeffrey Wells from the Black Nubble proceeding; is
4 that correct?

5 A. That is correct.

6 Q. And you also quoted from Dr. Wells in your testimony; is
7 that correct?

8 A. Yes.

9 MS. PRODAN: I'm going to ask the presiding officer
10 if we could strike -- not really strike -- but we object
11 to the use of the testimony of Dr. Wells being submitted
12 in this proceeding without having Dr. Wells available, and
13 we also object to the extracted findings from Dr. Wells
14 that Mr. Voorhees has included in his testimony.

15 We just object to it for taking it for the truth of
16 the matter discussed by Mr. Voorhees staying in there as
17 long as it's understood that this is simply in the record
18 for -- to show why Mr. Voorhees and NRCM have taken the
19 position that they've taken.

20 MR. VOORHEES: Can I comment on that?

21 MS. PRODAN: I'm not quite finished.

22 It's our position that NRCM should have made
23 Dr. Wells available in this proceeding as well if they
24 wanted to use his testimony. He should have been
25 available for cross-examination.

1 THE CHAIR: So you're asking me to exclude all of his
2 testimony or all references to Dr. Wells' testimony?

3 MS. PRODAN: I think there is some value in that it
4 certainly does explain that NRCM has relied on someone, but we
5 really do object to any use of the findings or any use of the
6 testimony of Dr. Wells because Dr. Wells is not here for us to
7 cross-examine. We did not have that opportunity at
8 Black Nubble because we were not a party.

9 THE CHAIR: So your remedy is that we should not
10 consider anything Dr. Wells had to say; is that what you mean?

11 MS. PRODAN: Not in this proceeding.

12 THE CHAIR: Is somebody going to say something?

13 MS. BURNS GRAY: Yes, Jennifer Burns Gray for the
14 intervenors.

15 I would just like to point out that Ms. Prodan did
16 not request that Mr. Wells be available for cross-examination
17 in her list of requested.

18 MS. PRODAN: Mr. Wells did not submit prefiled
19 testimony.

20 MR. VOORHEES: Can I also point out that many
21 intervenors, probably most of them, have referred to other
22 studies that are done and attached them and also quote from
23 them in their testimony.

24 THE CHAIR: I think what we're going to do is we'll
25 allow -- I think that Ms. Burns has pointed out that there's a

1 lot of testimony submitted from studies from all over the place
2 and that we will allow your testimony to be included with
3 objections noted by Ms. Prodan and that we will give it the
4 weight which it is due.

5 MS. PRODAN: Thank you.

6 BY MS. PRODAN:

7 Q. Mr. Voorhees, NRCM has intervened in the Plum Creek
8 proceeding, hasn't it?

9 A. Yes.

10 Q. NRCM is concerned about the impacts of the Plum Creek
11 project, isn't it?

12 A. I think that is easy enough for me to answer, but I would
13 point out that I am not aware of the details of our
14 involvement in the Plum Creek.

15 THE CHAIR: What was the question, Ed?

16 MR. LAVERTY: Repeat your question.

17 MS. PRODAN: I accept that he's not aware of the
18 details.

19 MR. VOORHEES: We are opposed to the Plum Creek
20 development.

21 THE CHAIR: I don't think we want to get into
22 Plum Creek testimony.

23 MS. PRODAN: I don't either, actually.

24 THE CHAIR: Let's stay with the subject and keep us
25 all out of trouble.

1 BY MS. PRODAN:

2 Q. Plum Creek is the underlying owner of the Kibby and
3 Skinner Townships, isn't it?

4 A. I believe so.

5 Q. If this project is approved, what kind of a message does
6 NRCM think it sends to Plum Creek and other landowners in
7 western Maine from NRCM?

8 A. I guess that we're not trying to send any messages as part
9 of our position here. We believe that the project is in
10 an appropriate place for wind power, and if it sends that
11 message, we will be comfortable with it.

12 Q. When was the current land use plan adopted by LURC?

13 A. 1997, I believe.

14 Q. Would you agree that there are currently CLUP policies in
15 place that were not in place for the Kenetech decision?

16 A. Yes.

17 Q. However, in your testimony you indicated that it was your
18 belief that it was -- that the criteria is the same?

19 A. I don't believe that we testified that it is identical.
20 We believe that it is substantively the same.

21 Q. On Page 3, you refer to the middle paragraph there and
22 read the first sentence.

23 MS. BROWNE: Page 3 of the CLUP?

24 MS. PRODAN: No, Page 3 of Mr. Voorhees' direct
25 testimony.

1 THE WITNESS: Tell me where on Page 3.

2 MS. PRODAN: The middle paragraph, starting, "It."

3 MR. VOORHEES: It is important to note that the
4 valuation criteria utilized by the Commission in reaching its
5 decision to endorse the Kenetech project have remained
6 essentially unchanged since 1995.

7 I think essentially unchanged is quite similar to my
8 statement just now, substantively the same.

9 BY MS. PRODAN:

10 Q. Have you checked to see whether there are any new policies
11 in the CLUP concerning energy that are different from what
12 was in the old CLUP?

13 A. As I said, I think there are changes in the two CLUP
14 documents. I can't specifically articulate the exact
15 wording that changed from this CLUP to the previous one.

16 Q. I'd like you to compare right now, actually, the old CLUP
17 to the current CLUP concerning energy policies.

18 First, the old CLUP on -- Page 71 of the old CLUP --
19 this is the document with the green cover that is the
20 prior CLUP, and this goes to the question of --

21 THE CHAIR: Could you just tell us the date, Pam, so
22 we know.

23 MS. PRODAN: Originally adopted in 1976, revised in
24 1983.

25 THE CHAIR: So you're talking about the 1983 CLUP.

1 Was that the one -- I assume you're getting to the question of
2 which one Kenetech was --

3 MS. PRODAN: I'm --

4 THE CHAIR: -- approved on.

5 MS. PRODAN: I'm questioning Mr. Voorhees' testimony
6 that the policies were the same at the time of the Kenetech
7 proceeding as they are now.

8 THE CHAIR: Okay, the CLUP you're referring to is the
9 one in which Kenetech was reviewed under; right?

10 MS. PRODAN: Yes.

11 THE CHAIR: That's the 1983 CLUP?

12 MS. PRODAN: Yes, it is.

13 MR. HARVEY: And then the next CLUP wasn't until
14 1997; right?

15 MS. PRODAN: Right.

16 THE CHAIR: Ed, does that satisfy your question?

17 MR. LAVERTY: Yes, I just wanted to know the
18 document.

19 MS. BROWNE: We don't have copies.

20 MS. PRODAN: No, it's sort of a historic document.

21 BY MS. PRODAN:

22 Q. On Page 70 you will note that it discusses energy
23 resources and there are six goals; is that correct? This
24 is the --

25 A. Yes, that's correct.

1 Q. -- earlier CLUP. Could you repeat that?

2 A. Yes, that is correct.

3 Q. In the discussion on energy resources in the new CLUP on
4 Page 136, how many goals are there?

5 A. Eight -- actually there's one goal, there's eight
6 policies.

7 Q. I see. They're now called policies.

8 A. There's one goal, it appears to be the same, and there are
9 now eight policy statements instead of six.

10 Q. Could you please read Policies 7 and 8 in the current
11 CLUP?

12 A. Allow new or emerging energy technologies which do not
13 have an undue adverse impact on existing uses and natural
14 resources. Limit the scale of new or emerging energy
15 technologies where feasible to allow time for the
16 Commission to evaluate the technology and impacts in
17 large-scale applications.

18 Q. Thank you. Would you agree that this is the largest wind
19 power proposal LURC is considering now?

20 A. Considering now?

21 Q. Yes.

22 A. Yes.

23 Q. This a.m., this morning, you testified that you believe
24 that the Commission applied the criteria protective of
25 remote areas, it will place most areas of the jurisdiction

1 off limits to wind power and Maine will not be able to
2 meet its goals to add clean generation to the mix; is that
3 correct?

4 A. Let me look at what I said. Can you just repeat that?

5 Q. Well, I would except that I had to takes notes because
6 that was not in your prefiled testimony.

7 So I would like you to read it actually.

8 A. What I said is if the definitions and applications of
9 remoteness in resource protection proposed by the Friends
10 of the Boundary Mountains are applied across western
11 Maine, then it would effectively prevent Maine from
12 obtaining its renewable power standards, power goals,
13 certainly at a reasonable cost.

14 I believe that's what I said.

15 Q. So the application of -- could you read that first part
16 again.

17 A. The definitions and applications of remoteness and
18 resource protection -- what I mean by that is that the
19 sense of testimony that we've heard suggests to me that
20 any wind power development is inconsistent with a sense of
21 remoteness across this region.

22 Q. Are you asking LURC not to apply certain criteria to this
23 project?

24 A. No.

25 Q. And you didn't mean to imply that in your testimony, in

1 your presentation this morning, did you?

2 A. Absolutely not.

3 Q. I want to refer to one of your exhibits, Exhibit C. This
4 is the forestry operations permit exhibit that you
5 submitted with your testimony?

6 A. Yes.

7 Q. Who compiled this data in Exhibit C?

8 A. A number of people. It's taken obviously from data
9 gathered from LURC files. We've had interns work on it
10 and I've worked on it, as well as other staff at NRCM.

11 Q. Did you go back and check over the work that was done by
12 the interns?

13 A. I did not.

14 Q. So it's likely that there could be some errors in here?

15 A. I don't know whether I would describe it as likely. I
16 certainly wouldn't be surprised if there were.

17 Q. Who is it you have for interns at NRCM? What type of
18 people, are they students?

19 A. I think the person who did most of this work was a
20 student, yes.

21 Q. Some of the dates in the left-hand column are wrong,
22 aren't they?

23 A. I don't know for sure. If you point to one specifically
24 and suggest it's wrong, you may be correct.

25 Q. But you submitted this expecting the Commission to rely on

1 this data; correct?

2 A. I submitted this exhibit to demonstrate a larger point
3 that I don't think relies on exact dates being a hundred
4 percent accurate.

5 Q. Could you flip to the third page and look at the first
6 entry under Redington Township?

7 A. Yes.

8 Q. Do you believe the date's correct on that?

9 A. I can't say.

10 Q. Could you read that line?

11 A. What are you referring to, October 25th, 2006?

12 Q. Yes. Read the whole line, please.

13 A. Redington Township 1000 -- I'm not sure what all the --
14 021 Hudson Pulp and Paper Company, P-MA.

15 Q. Does Hudson Pulp and Paper still own or manage land in
16 Redington Township?

17 A. I can't say for sure.

18 Q. How many lines are there in this exhibit for Redington
19 Township?

20 A. I Count 11.

21 Q. So that indicates to you that there were 11 permits?

22 A. Not all of these are individual permits. As it says in
23 the introduction, there were also amendments included.

24 Q. 11 events then? Permits or amendments to permits?

25 A. I believe that's correct.

1 Q. Which would allow harvesting of a P-MA zone?

2 A. That's correct.

3 Q. So anyway, from this list of forestry operation permits,
4 for the Town of Redington what does it look like in terms
5 of number of acres in Redington that were applied to be
6 cut in the P-MA zone? You get to do math in your head.

7 A. Well, it looks like approximately 4000.

8 Q. Could you tell from this data whether there's been any
9 harvesting applied to be done in the P-MA zone in Kibby
10 Township?

11 A. I don't believe that's listed in this document.

12 Q. So from this document you would have to conclude that
13 Kibby Township has never been logged during the time
14 permits have been required by LURC in the P-MA zone; is
15 that correct?

16 A. I can't testify that that's the case, but it's clearly
17 absent from this list.

18 Q. Why can't you testify to that?

19 A. As I said, I'm not suggesting that this document is
20 comprehensive of every single permit that was granted, nor
21 have I suggested that every single number in this document
22 is 100 percent correct.

23 Q. Now, this exhibit for forestry operation permits doesn't
24 say anything about structures in a P-MA zone, does it?

25 A. No.

1 Q. Or roads, does it?

2 A. Not -- well, the permits may refer to road construction.
3 I'm not sure about that detail, but this document isn't
4 referring to allowable road construction.

5 Q. It does not refer to road construction associated with the
6 development, does it?

7 A. That's correct.

8 Q. Are you aware that TransCanada plans to construct 34-foot
9 wide roads along the top of Kibby Range to move its
10 equipment around?

11 A. That's correct.

12 Q. That's at elevations predominantly in the P-MA zone?

13 A. I don't know if I'm comfortable with the predominantly,
14 but I know some of that road construction is in the P-MA
15 zone, yes.

16 Q. On Page 9 of your direct testimony, is it correct that you
17 stated in the section entitled Impacts on P-MA Districts
18 that you think that clearing would be the major impact
19 caused by wind power development on the resources in the
20 P-MA subdistrict?

21 A. I don't believe I testified to that. We did describe the
22 extent of the clearing, and I do believe that the clearing
23 would be one of the more important impacts from the
24 project.

25 Q. Did you not imply that the impacts in the P-MA zone would

1 be clearing for timber rather than development?

2 A. Can you repeat that question.

3 Q. I will -- could I rephrase it?

4 A. Yes.

5 Q. If you look at Page 9 of your direct testimony, the
6 paragraph that starts second, could you read that sentence
7 for me?

8 A. Second, to the extent of clearing needed for this project
9 would be small compared with the benefits of the project
10 and also small when compared with clearing for timber
11 allowed by the Commission in nearby P-MA zones.

12 Q. So would you agree that this implies that you're weighing
13 the effects of clearing for timber in a P-MA zone versus
14 the benefits of development in a P-MA zone?

15 A. I don't think that's the only balancing that we are
16 describing here; but, yes, I think we are describing the
17 balance between the impact of clearing and the benefits of
18 the project.

19 Q. Let me ask you, what do you think -- what do you think
20 would be the major impact caused by wind power development
21 on the resources in the P-MA subdistrict?

22 A. As I said, I think that permanent clearing of land is one
23 of the impacts. I think that impacts on wildlife, as
24 Ms. Jones testified about, is also one of the impacts on
25 the P-MA zone.

1 I think the construction of roads -- in some cases,
2 steep slopes -- is another impact on the values of the
3 P-MA zone.

4 Q. When NRCM considers the benefits versus the tradeoffs of
5 wind power in P-MA subdistricts in other areas of the
6 jurisdiction, does it consider the values of remoteness in
7 undeveloped land?

8 A. Absolutely.

9 Q. Where did you refer to that in your testimony?

10 A. On Page 5 I talked about the fact that we do not believe
11 the project area is a remote wilderness area.

12 As I described to you today, although there is
13 remoteness values in this area, I do not believe that the
14 project is consistent with preserving that sense of
15 remoteness in the region.

16 Q. Are there any remote wilderness areas in Maine?

17 A. I think there are.

18 Q. Do you know where they are?

19 A. I can't give a list of them. I think that there are many
20 places in the boundary mountains themselves that are
21 remote wilderness areas.

22 Q. Okay. Turn to Exhibit A, please. Actually, you have two
23 Exhibit As; is that correct?

24 A. They're meant to be both part of the same. We have an
25 Attachment A and an Exhibit A.

1 Q. Mine both say Exhibit A. Did you mean to staple them
2 together?

3 A. Yes.

4 Q. So they are both Exhibit A?

5 A. The map and the chart, yes.

6 Q. The chart on the following page is part of the same
7 exhibit; is that correct?

8 A. Yes.

9 Q. On Page 2 of your testimony you say TransCanada project
10 does not include Tumbledown, boundary, Three-Slide, and
11 other mountains proposed in the Kenetech project; is that
12 right?

13 A. I believe that is correct.

14 Q. On your Exhibit A map called Turbine Locations, Kenetech
15 versus Kibby, are you aware that the turbines depicted in
16 the township to the east of Kibby and Skinner Townships
17 were not included in Kenetech's petition for rezoning?

18 A. Those are probably referring to Phase II. I believe the
19 Kenetech project had two phases of construction, and I'm
20 not exactly sure which were part of Phase I, which was
21 permitted, and which are part of Phase II.

22 Q. Do you have any evidence that Kenetech actually acquired
23 any wind development rights in that township?

24 A. I'm not sure I can answer that question.

25 MS. BROWNE: Which township?

1 MS. PRODAN: This is the township that is to the east
2 of Kibby and Skinner Townships. It's depicted on his map,
3 Exhibit A.

4 BY MS. PRODAN:

5 Q. So you don't have any evidence that Kenetech even had any
6 right to develop those mountains in the township referred
7 to, do you, but you put it on the map?

8 A. I believe these are -- this is an accurate depiction of
9 the Kenetech project, and as I said, I don't know that all
10 of the locations here are part of the Phase I that was
11 permitted, and I also do not have information that would
12 allow me to know which of those they had the wind rights
13 to at the time of the application.

14 Q. You're aware, are you not, that TransCanada in its updated
15 information dated July 23rd, 2007 admitted that its
16 development rights do not extend into Merrill Strip?

17 A. That's TransCanada's application, they do not have -- I'm
18 sorry.

19 Q. And you are aware, are you not, that TransCanada in its
20 updated information dated July 23rd, 2007 admitted that
21 its development rights do not extend into Merrill Strip?

22 A. I believe that's correct.

23 Q. So you are aware of that?

24 A. Yes.

25 Q. Would you agree that while it might appear from your map

1 that TransCanada is responsible for reducing the Kenetech
2 project to less than half the original size, that would be
3 misleading since TransCanada doesn't even have easements
4 over all those mountains?

5 A. I'm not suggesting that TransCanada is responsible for the
6 change from Kenetech to the Kibby project, only that the
7 scale and the magnitude and the impacts of their project
8 compared to the Kenetech project do not include those
9 areas that Kenetech proposed to develop.

10 Q. So you would agree with me, then, that this map might be
11 misleading, would you not?

12 A. No, I would not agree with that. I'm not -- I did not
13 intend to suggest. I think your question is that
14 TransCanada, the company, was in some way responsible for
15 that change.

16 Q. On Page 5 of your testimony you admit that the project
17 will be visible from some sensitive sites of State or
18 regional significance; correct?

19 A. Yes.

20 Q. You state on Page 5 that those sensitive viewpoints of
21 State or regional significance are greater than 10 miles
22 away.

23 Is that still your testimony?

24 A. I'm reading. Can you -- okay, I've seen it. I believe
25 that's generally correct.

1 Q. Isn't the Scenic Highway along Route 27 of State or
2 regional significance?

3 A. Yes.

4 Q. Are you aware that the turbines when viewed from Sarampus
5 Falls or Vine Road on Route 27 would be less than 1.5
6 miles away?

7 A. I would certainly agree with that. I don't believe that
8 those are significant to impact the viewpoints.

9 Q. It goes back to the question of whether you still are
10 saying that sensitive viewpoints of State or regional
11 significance are greater than 10 miles away.

12 I guess my next question to you is, you don't think
13 that Sarampus Falls or Vine Road on Route 27 are
14 considered viewpoints; is that correct?

15 A. I think those are important viewpoints; I don't think that
16 the impact of the project from those viewpoints is
17 significant or undue.

18 They're obviously less than 1 mile away. I think
19 you're correct that my statement isn't technically correct
20 referring to that Scenic Byway.

21 Q. Would you agree that these -- this location -- these two
22 locations are of State or regional significance?

23 A. Yes.

24 Q. Would you agree that Chain of Ponds, which has significant
25 public lands on it, is of State or regional significance?

1 A. I'm not sure -- I think they are of significance in the
2 region.

3 Q. Do you realize that the turbines will be viewed from Chain
4 of Ponds for -- according to Ms. Vissering's testimony --
5 for a mile intermittently at a distance of less than 2
6 miles from the turbines?

7 A. Again, I can't recall the exact visualizations and her
8 testimony. It was our conclusion that those also were not
9 specific impacts on the views from those locations.

10 Q. So is your position that this is not a sensitive
11 viewpoint, or is your position that it's a sensitive
12 viewpoint but the impacts are not significant?

13 A. I think that these are sensitive viewpoints and as I --
14 the first sentence there that I was suggesting is that the
15 project is visible from important resources, scenic
16 resources, of State and regional significance, and my
17 point in saying that is that even though we believe this
18 project is appropriate, we do not deny that it is visible
19 from some locations that are beautiful and scenic.

20 Q. Well, Mr. Voorhees, wasn't your point actually that the
21 project will be visible from some sensitive view spots of
22 State or regional significance but only at distances
23 greater than 10 miles?

24 A. I think that those are the viewpoints that we believe were
25 areas of the greatest State or regional significance, such

1 as the Appalachian Trail and Flagstaff Lake.

2 Q. So now you're changing your position and acknowledging
3 that the highway, the State Scenic Highway, as well as
4 Chain of Ponds, are indeed sensitive viewpoints; rights?

5 A. Yeah, a useful clarification of what we were intending to
6 convey.

7 Q. Are you also aware that in Title 38 fragile mountains
8 themselves, in other words, areas over 2700 feet, are
9 resources of State significance?

10 A. Well, I think that's an extremely generalized application
11 of a type of land form that's regionally significant.
12 It's not the same as a sensitive view from a particular
13 identified State or regional.

14 Q. Your testimony does refer to spots of State or regional
15 significance, does it not?

16 A. Yeah, I think that I would agree that that may be too
17 general a term that I am using.

18 Q. And you do understand that the legislature delegated to
19 LURC the authority to protect these areas, do you not?

20 A. Hm-hmm, yep, absolutely.

21 Q. In your testimony on Page 9 you refer to clearing for
22 timber; correct?

23 A. Yes.

24 Q. You also compare clearing for development with clearing
25 for timber; correct?

1 A. If you're referring to a comparison for clearing for this
2 wind development and clearing for timber, yes, we do make
3 that comparison.

4 Q. Are you opposed to timber harvesting?

5 A. No.

6 Q. What do you mean by clearing for timber?

7 A. Harvesting trees to use for timber. I'm not sure I
8 understand the question.

9 Q. You used the term clearing for timber, which is not
10 unfamiliar to me, so I ask you, what do you know by
11 clearing for timber? How do you define that?

12 A. I mean -- well, clearing for timber can take many
13 different forms from full clear cutting to selective
14 clearing of small areas.

15 I think that we're making a general comparison
16 between the practice of cutting for timber and the
17 practice for cutting down trees to make room for turbine
18 pads.

19 Q. Where's your evaluation of the impact of permanent
20 structures that are hundreds of feet tall, associated
21 clearing, substation and transmission lines, concrete
22 plants, blasting and construction of 30-foot wide
23 permanent roads to put up the wind generators and maintain
24 them?

25 A. We were unable in our brief testimony to examine every

1 single impact of this project in detail nor do I think
2 that was the purpose.

3 We also were consolidated with other intervenors and
4 collectively our testimony, I think, gives a very good
5 look at the impact from these projects, including the
6 turbines themselves.

7 Q. What permanent development other than haul roads for
8 forest management and operations is there in the Kibby
9 project area now.

10 A. I wouldn't be surprised if there aren't any.

11 Q. Wouldn't you think it would be an important aspect to
12 consider the impact of this type of development?

13 A. We absolutely did the impact of this type of development.
14 We do not believe that the footprint in the mountain of
15 these wind turbines is substantial in comparison to the
16 benefits, nor do we believe that the amount of clearing
17 that is required has any substantial or greater impact
18 than the collective set of forestry operations happening
19 in this area.

20 They are undeniably structures that will stay on the
21 landscape, if not permanently, for a long time. That's
22 obviously a difference between this project and clearing
23 for timber.

24 Q. Well, if you did conduct an analysis, why didn't you
25 include it with your testimony?

1 A. I'm not sure what you're referring to by an analysis.

2 Q. I asked you the previous question, whether NRCM did an
3 analysis and I thought you answered that we did do an
4 analysis of the impact of the project?

5 A. Yeah, I guess it's not -- it didn't take the form of a
6 formal study.

7 Q. So how did you do it?

8 A. Well, that's a good question and a long one. We
9 started --

10 Q. That's my last question so you're going to have to cut it
11 off.

12 A. Our examinations and our conclusions of this project are
13 based on a lot of different factors, some of which go
14 beyond my own involvement in this project and extend back
15 to our involvement in the Kenetech project.

16 We started with a look at that project and a look at
17 the conclusions that the Commission came to and the
18 conclusions that the NRCM and others came to on that
19 project. That provided a strong basis for how we thought
20 about this project.

21 We then looked at the differences between these two
22 projects as I've illustrated. We also thought about the
23 demonstrated need for these wind power projects, which as
24 I've testified, I think have changed.

25 We also read through all the application materials by

1 TransCanada and conferred with other organizations, we
2 visited the site, and we took part in a set of
3 conversations with TransCanada that explored the impacts
4 that we were concerned about and tried to find appropriate
5 solutions where there were opportunities.

6 So that's not a comprehensive list but that's a
7 beginning of a description of the kind of process that we
8 went through in coming to our conclusions.

9 THE CHAIR: Are you -- is that -- you're completed
10 Pam, thank you. Do any other intervenors have any questions?

11 Commissioners. Who wants to start? Gwen?

12 MS. HILTON: Yes, I'll start. This question is for
13 Mr. Publicover.

14 EXAMINATION OF DAVID PUBLICOVER

15 BY MS. HILTON:

16 Q. You made a comment, I believe, that went something like
17 this, that this project, if disapproved, would put too
18 many other places off the list, the list of potential
19 sites, potentially approvable sites for wind power, and I
20 assume that since you made that statement that you
21 considered what kind of bar this established or might
22 establish if this project is approved, and I just wondered
23 one, I guess, did you do that and what in general you
24 think the implications are for future wind projects. One,
25 in this particular region of Maine and more specifically,

1 I guess, and many other parts of Maine?

2 A. Well, I think what I was saying refers mostly to the
3 mountains, the western mountains region; and the statement
4 was intended to say that I think if this project were
5 disapproved, the criteria to be applied to that
6 disapproval would be applied to many other sites in the
7 state, and I think in the sense that that might be to
8 broad a brush and that is essentially a decision that
9 would be better made in the context of the CLUP to make a
10 sort of broad statement about remote areas or not
11 appropriate for wind power development.

12 I think essentially you would be precluding
13 development in almost -- certainly the entire boundary
14 mountains region extending down to the New Hampshire
15 border that might tend to force wind power into areas that
16 were less remote but more sensitive, such as some of the
17 areas along the Mahoosucs and Bigelow area.

18 So we aren't prepared to take that broad a brush and
19 say that large areas of the state should be off limits to
20 wind power simply because they're remote.

21 Q. Do you think that -- I mean, Kenetech obviously was a much
22 larger project and looked at a lot of other ridges or
23 mountaintops in this region.

24 Would you support wind power in addition to what we
25 have here on any of those others?

1 A. There may be some other sites in the region we would
2 consider. I think if this project extended over the
3 summit of Kibby Mountain, we would have opposed it, and
4 certainly if the project was as extensive as Kenetech
5 given what we understand now about distribution and value
6 of resources, we would not support that.

7 I would not say there are no other ridges within this
8 region that could potentially be considered whether for
9 core high elevation areas where we would -- even though we
10 supported them in Kenetech, I don't believe we would
11 support them now because I think we're aware of other
12 opportunities for development in less sensitive places.

13 MS. HILTON: Could I have an answer, maybe, to the
14 same question from each of the others of you.

15 MR. VOORHEES: I think it would be important to think
16 about the reason why you might disapprove this project, and I
17 think I would agree with Dave that if it was -- the fact that
18 this is a remote region in general that I think it would be a
19 concern to us.

20 We also have spent a lot of time talking with wind
21 developers. Wind developers are looking -- they pay a lot of
22 attention to the decisions of the Commission -- that's no
23 surprise -- they need to make very substantial investments even
24 before an application arrives here, and I do think that there
25 is a consequence for wind development in the western mountains

1 of not permitting sites that appear to be reasonably sited.

2 I think there is an important precedent that's set.
3 I don't think -- I think what's important is the thinking that
4 goes into it and the reason why the Commission might disapprove
5 a project if it was as broad as what we're hearing the concerns
6 are, that I think is problematic.

7 We may decide that there are important reasons to not
8 permit this project, but if they are as broad brush stroke as
9 some of them that we've been talking about, I think that would
10 have negative consequences for wind development in Maine.

11 MS. JONES: I appreciate the question. I think the
12 question that faces you folks is what can we approve over 2700
13 feet with regard to wind power development and that is a tough
14 question, one that we struggled with at Maine Audubon. I think
15 if you don't struggle with it, you're not doing your homework.

16 For us what we considered were there multiple values
17 of high resource values at the site and -- or not. Other
18 resources that were there, did they avoid those areas.

19 I think I agree with Dave that had the project
20 continued on up on top of Kibby Mountain, it would have been a
21 much more difficult decision for us to support the project.

22 Similarly, I was one of the people that negotiated
23 the Kenetech project -- negotiated with the folks there and
24 we've learned so much more and we have to make our decisions
25 based on what we know today with the best always data. We're

1 always in that position. We're in that position today, and the
2 best available data that we have today, we think that this is
3 an appropriately sited wind power project.

4 MS. HILTON: Okay.

5 MR. SCHAEFER: Just best available data, is there any
6 return on research from Mars Hill for mortality yet?

7 MS. JONES: No, I don't have -- I don't think it's
8 available yet. The folks at Mars Hill know that we're very
9 interested in receiving it once it's compiled and interpreted
10 and brought forth.

11 MR. LAVERTY: Just one question, Ms. Jones.
12 Dr. Wilson -- again, I'm not an ornithologists and I'm not as
13 well versed in birds as I should be, I'm personally embarrassed
14 about that -- but he seemed to imply that the absence of
15 identification of some species that should have been there and
16 then the identification of other species that shouldn't seem to
17 imply, at least from Dr. Wilson's perspective, a weakness in
18 the methodology that was applied to do the ornithology -- the
19 bird assessment, okay.

20 Would you -- I guess -- and what we're sort of
21 wrestling with here is -- is this a significant concern that
22 sort of demonstrates either the study design or methodology or
23 maybe the competence of individuals who are assigned to execute
24 these studies? You've reviewed these studies. Would you give
25 us your assessment of the veracity of these studies?

1 MS. JONES: Yes. The golden-winged warbler and the
2 Connecticut warbler that were identified were immediately
3 reported to the birding community.

4 Maine Audubon does the Bird Alert. Our organization
5 is part of the birding community and the experts. I noted that
6 the experts did send the reports to -- including a lot of
7 people that are highly valued in terms of their ability to
8 identify the BRI, which some of you are familiar with are
9 highly regarded in terms of their ability to identify birds.

10 When you do the studies, having them in the hand and
11 I think there's just really no substitute for an in-depth
12 understanding.

13 I have a lot of confidence -- I've also been out in
14 the field with Dana Valleau, found him to be very
15 straightforward, not trying to hide anything like most of
16 the -- similar to most of the folks that I've worked with here
17 in Maine. So I have a lot of confidence in the accuracy of
18 those reports.

19 The Red-eyed Vireo, I haven't really focused on that.
20 It wasn't found in the 2006 foraging study. Birds are episodic
21 in their movements. I have a lot of confidence in these
22 particular studies. I have read that thick volume over the
23 course of many months and have a lot of confidence in it.

24 MR. LAVERTY: In your view, the absence of
25 identification of that species, should that have tripped

1 additional research? Should something have been done as a
2 result of that finding?

3 MS. JONES: Not from the negative data piece of
4 information, no.

5 MR. LAVERTY: Thank you.

6 MR. WIGHT: Jody, we talked a lot about post
7 construction studies and all that.

8 Can you tell me what the value of a post construction
9 study is to the built infrastructure that you're studying? I
10 guess the question is, is it valuable to that or is it valuable
11 scientifically or the future?

12 MS. JONES: I would say the latter. What we're
13 trying to find out as you move forward with permitting wind
14 power facilities, we have to have a much better understanding
15 of the interaction between the migratory species, in
16 particular, and these facilities, so that will help us
17 understand how the birds, bats, wind turbines all interact.

18 MR. WIGHT: Have you ever heard of anybody voicing
19 the opinion that we should build the project, do a post
20 construction study, and if we see high bird mortality we'll
21 tear the project down?

22 MS. JONES: No, I haven't seen that. The worse
23 mortality incident was with the bat issue down in
24 West Virginia. I feel the difference between that project and
25 this project is that in place is that IF & W is going to decide

1 what the mitigation measures are going to be, and I think that
2 that was really important to Maine Audubon that it be a
3 regulatory agency that has the expertise to do that.

4 MR. WIGHT: Thank you.

5 MR. VOORHEES: Not to step on Jody's turf as the bird
6 expert, but I think one of the goals of these post construction
7 studies is that mortality events are usually fairly episodic,
8 kind of like erosion. Ninety-five percent of the erosion takes
9 place in one big storm each year.

10 If we can understand the connection between these
11 higher mortality events and the climatic conditions, it doesn't
12 mean you tear the project down, but it may mean that when a
13 certain type of weather front is coming through, you stop the
14 turbines from rotating, you shut them off. It doesn't entirely
15 reduce the risk but it lowers it because the blades aren't
16 moving.

17 It may be a matter of three or four days in the fall.
18 Shutting down the turbines can significantly reduce the risk of
19 mortality. I think the goal is to try and predict when those
20 high-risk periods are.

21 MS. JONES: And they're also associated with
22 specific, you know, low cloud ceiling nights. Those are some
23 of the things that IF & W would work with.

24 MR. WIGHT: That's very helpful. Thank you.

25 MS. KURTZ: I have a question for Mr. Publicover.

EXAMINATION OF DAVID PUBLICOVER

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BY MS. KURTZ:

Q. I think -- did you actually do a study on all the appropriate wind sites in Maine, the AMC, are you part of that?

A. Yeah, we are in the process of doing a study where we have identified ridgelines underlain by Class 4, overlaying them with data on a variety of recreational scenic and natural resources in trying to understand which sites have the greatest amount of overlap with those resources and which sites do not.

We hope to have that work done by the end of October.

Q. We have a community of a work in progress, then. We received something like that back in 2006. Was that a completed study?

A. I'm not sure what it was. I know I've sort of talked about this work we've been doing and some sort of preliminary results have come out. I don't recall what.

Q. Was there a written report? In any event, my question is --

A. Oh, I might give you one -- it may have been the one we did for Massachusetts, sort of working on that.

Q. No, it was in Maine, and I think it may have started with, I don't know, a hundred or a couple hundred ridgelines and actually was cut down to somewhere around 22 appropriate

1 ones.

2 I just wondered if Kibby was on that -- Kibby Range
3 and the A and B series that we're talking about here, if
4 that was in your original list of appropriate.

5 A. In the preliminary -- I think probably what I gave you --
6 and I know I did this in my original testimony in
7 Redington was sort of preliminary results -- some of the
8 areas that I thought and some of the mountains that were
9 showing up as having sort of multiple high resource
10 values. Kibby Mountain actually does show up as fairly
11 high on the scale of things.

12 But the site -- the Kibby Mountain site we evaluate
13 is a fairly long site that runs from the northern part of
14 the A series around over to Spencer Bale Mountain.

15 The values -- so if the resource values that
16 contribute to the high -- sort of the relatively high
17 value of Kibby Mountain -- are concentrated on that
18 portion of the ridgeline that will not be impacted
19 essentially from the Kibby Mountain north. That's where
20 the rare natural community is, that's where the Bicknell's
21 thrush habitat is, that's part of the large roadless area
22 that comes across Tumbledown Mountain.

23 The area that will be developed as part of the
24 A Series essentially lies outside and for the most part
25 separate from the values that contribute to the high range

1 of the Kibby Mountain site.

2 Q. Was that distinction made? I'm just trying to remember,
3 like I said, there were only like 22.

4 A. Yeah, that was the preliminary list of really the highest
5 ranking mountain and sort of the preliminary results.
6 Kibby was not on that list at that time, no.

7 Q. As being appropriate?

8 A. No, I think that the list of 20 or so was the most
9 inappropriate sites and included Bigelow and Baxter.

10 Q. So it was the --

11 A. Kibby was not in that list of top 20. I think it shows up
12 in the top 20 percent of the state, but it's certainly not
13 among the top 20 out of 267 sites.

14 Q. So maybe I've gotten this backwards. What I'm trying to
15 separate in my find is whether or not that A, B Series
16 that we're talking about, whether they were?

17 A. They were not on the list. If you've seen the list for 20
18 mountains, that was part of my Redington testimony.

19 Kibby is not on that list.

20 Q. And the 20 mountains are appropriate?

21 A. Inappropriate. Those are the gem high value ones.

22 Again, Kibby -- preliminary results and analysis,
23 Kibby is a fairly high ranked mountain but the project
24 does not impact that part of the site, and the Kibby Range
25 is actually relatively low scoring in the analysis.

1 MS. KURTZ: Thank you.

2 THE CHAIR: I guess this is for Jody.

3 EXAMINATION OF JODY JONES

4 BY MR. HARVEY:

5 Q. We've used the term mitigation -- mortality risks. I
6 think this is fairly obvious to me but you need to confirm
7 it.

8 The mortality risk is not even throughout the year,
9 is it? I assume it's higher during a migration period as
10 opposed to some other time of the year. Is that true?

11 A. Yes, that's true. For the neotropical migrants, the birds
12 that nest in the boreal forest in our vicinity and pass
13 through Maine on their way to their wintering grounds --
14 the spring and the fall -- which is why the applicant did
15 the nocturnal migrating birds at that point.

16 That's a very high risk time on forested ridges in
17 other areas, in mid Atlantic states, and that's why that
18 was done.

19 And then raptors, there are two types of habitats
20 that are at risk: One, if you're in sort of a core
21 foraging area like Altima Pass was, and then the birds use
22 high elevation areas to gain elevation. Some of those are
23 traditional sites, like Hawk Mountain.

24 The question that's placed before the applicant is
25 this as well. That's the kind of thing, during the fall

1 and spring.

2 Q. How long a period is this normally?

3 A. Well, it's episodic and it depends on the species. Bats
4 start swarming in July and August and then it's mid August
5 to mid October.

6 Q. So that's the southbound?

7 A. That's the southbound. In the spring it's more
8 concentrated. It's not as long because they're in a
9 hurry.

10 Q. For obvious reasons.

11 A. For obvious reasons.

12 Q. So getting back south is not quite the same priority.

13 Is there a difference in your assessment of mortality
14 to the birds, for example, when the wind farm is running
15 as opposed to when it's not running, obviously the
16 structure is there 100 percent of the time, so it is an
17 obstacle that has to be overcome.

18 I'm assuming, anyway, when the thing is turning that
19 there's a higher risk to birds passing by.

20 Is it a huge increase, incremental increase, or is it
21 just so-so?

22 A. Well, what we know from the communications tower is higher
23 up in the migratory pathway, we're assuming the higher
24 risk because there's a higher percentage of the birds in
25 the rotor swept area.

1 They're not guides as was pointed out before, and
2 there's the question of avoidance. Now, diurnal, or birds
3 that migrate during the day -- particularly hawks -- if
4 they're not in the mode of foraging, which they tend to
5 lose their perspective when they're trying to get at
6 something, there's the assumption that if they're using
7 these facilities for gaining elevation that they would be
8 highly visible and less likely to collide.

9 The nocturnal migrating songbirds that we're
10 concerned, because at night visibility is low and a
11 certain portion will be lit, that's the thing that we want
12 studied.

13 Did I answer your question? So, yes, the turbine
14 spinning is a concern. Bats have been known to be
15 attracted to spinning turbines.

16 Q. I guess I'm not sure if this is important or not, but it's
17 interesting, I guess, is that I wondered, have you looked
18 at the -- on an overall basis, the wind farm doesn't run,
19 what, 30 percent of the time? I think that's how I
20 understand these capacity factors.

21 That really means a wind farm only runs 30 percent of
22 the time.

23 A. On average.

24 Q. There a lot of time it's not running. It would seem to me
25 that perhaps the risk that we're facing has a lot to do

1 with when the wind blows?

2 A. That's right, it has to do with that. What we want to do
3 with post construction studies is understand all those
4 interactions, so that if there a problem, we can address
5 it.

6 Q. I guess we're left here with that we have to build a few
7 of these things to really know what's going to happen?

8 A. In different locations, particularly, yes.

9 But I think -- I just want to point out that the
10 preconstruction studies are really key to get to the
11 before and after impact studies.

12 THE CHAIR: Did I spur something, Steve?

13 MR. SCHAEFER: The profile of the actual blades, if
14 the prevailing wind is from the west and the birds are
15 migrating from the north to the south, there would be less
16 resistance in the migratory path, is that part of the equation?

17 MS. JONES: I think there was some discussion of that
18 in Dana Valleau's rebuttal testimony that I also read. We'll
19 find out, is my answer.

20 THE CHAIR: I think that's probably enough from me.
21 Thank you very much for your participation and testimony.

22 We've got -- we finally get to CLF and IEPM. Are
23 they working together on this?

24 MR. WILBY: Good afternoon, commissioners. My name
25 is Dave Wilby, executive director of the Independent Energy

1 Producers of Maine, and I want to thank you for all your
2 efforts in public service on this project and all the ones that
3 have come before you recently.

4 I think that Sean and I both subscribe to
5 Mr. Kimber's philosophy earlier that the most significant comes
6 last in the list as to last intervenors today.

7 IEPM has provided testimony and summarized it before
8 on the issues that we've addressed in the Kibby proceeding, so
9 I'm not going to go into detail. I'm going to be mindful the
10 chairman's admonition recently to not be unduly repetitious.

11 But just to recap, my testimony suggested that the
12 Kibby project meets the demonstrated need criterion because the
13 project is consistent with State, regional, and federal energy
14 policies and objectives, and because there is, I think,
15 demonstrable public demand for wind development and wind power
16 itself.

17 Secondly, the second major point I think I tried to
18 make in my testimony is that the Kibby project is consistent
19 with key portions of the CLUP -- namely, the energy and air
20 resources sections. Those are the sections that I attempted to
21 address.

22 So that in essence was my testimony, and I think it
23 may be useful just to spend a moment to address a couple issues
24 raised yesterday during the cross of Ed Miller of Maine Lung
25 Association by the Friends of the Boundary Mountains because

1 it's related to my testimony and I think it's important to
2 clarify a couple of issues.

3 First, I think it was suggested -- or at least
4 implied -- that the development of new electricity generation
5 wasn't necessary. This is not the case, as the comments of the
6 Maine Public Utilities Commission to this Commission have made
7 clear recently, and I have -- I'll just refer to a very few
8 slides here for parties' information with the Commission's
9 information. They are all contained in the exhibit that was
10 recently handed out by the applicant from Ms. Prodan's
11 edification. They're all in Tab 1 of this particular document.
12 I decided not to make copies, just not to waste paper, so these
13 slides are in the record.

14 Again, I think what this slide shows, quickly, those
15 red and blue lines sloping up are two scenarios of our growing
16 demand for electricity in the very near future. We're not
17 talking about a decade from now, we're talking about a matter
18 of months and a few years. And this illustrates that we need
19 to develop new electricity here in the state and in the region
20 now, even assuming that we put more focus on the conservation
21 and efficiency side.

22 The PUC's message -- which I think contrasts with
23 what was implied yesterday -- was that more power, particular
24 renewable power of the sort that wind would provide, is needed
25 even as conservation efforts go forward on a parallel tract.

1 It's not one or the other, it's frankly both.

2 Second, Friends of the Boundary Mountains' cross
3 yesterday of Mr. Miller, during that process referenced a 2005
4 study on small wind projects to suggest that if all the
5 proposed wind projects in -- I'm sorry, in Maine and
6 New England -- were built at once, the various State's
7 renewable portfolio standards would be swamped.

8 This is simply not true as this slide from ISO
9 New England by way of Chairman Adams from PUC shows. That pie
10 chart on the left, that green slice of the pie, shows the
11 demand for new renewables created by all of New England's State
12 RPSs combined in 2015. That's 6.5 percent of the total energy
13 of the region.

14 As you can see by the numbers on the right, to
15 fulfill this demand, we're going to have to do essentially all
16 of the projects that are currently proposed, although that's
17 probably unlikely for a variety of reasons. We'll have to do
18 all of them, plus likely more, to meet the public policy
19 demands that are already on the books.

20 In this I think I want to echo and maybe expand just
21 for a moment on Mr. Voorhees' comment of an hour ago or so
22 about the RFP process, and I think this was colloquy with Terry
23 Bennett yesterday and I think with the chairman about that
24 process, and certainly the question, as I recall it, was
25 whether Maine has a similar sort of RFP, and of course, the

1 answer that Mr. Voorhees gave is absolutely correct, they do
2 not and there is not such a process.

3 It is exactly the same sort of response to a public
4 policy that TransCanada is making here. If the question had
5 been posed, are you responding as you did in Quebec to a
6 government policy, policy, to encourage you to develop these
7 things in this region, I think the answer would have been yes.

8 It's a different mechanism, the RFP in the provinces
9 and an RPS in New England because we have very different
10 electricity systems. Although the mechanism is different, the
11 fundamental purpose is, I think, exactly the same.

12 So with that I really appreciate the opportunity to
13 testify.

14 MR. MAHONEY: Good afternoon, Mr. Chairman and fellow
15 commissioners.

16 My name is Sean Mahoney and I'm the vice president
17 and director of the Conservation Law Foundation office in
18 Maine.

19 CLF supports this project wholeheartedly. CLF
20 recognizes and appreciates the Friends of the Boundary
21 Mountains' position and Mr. Kimber's eloquent testimony on the
22 value of wild and remote places in Maine.

23 However, we must respectfully disagree with their
24 position that this project is at odds with protecting the
25 integrity of LURC jurisdiction and particularly with

1 Mr. Kimber's concluding statement that the benefits of wind
2 power with respect to renewable energy or pollution avoidance
3 are in no way proportional to the adverse impacts to Maine's
4 mountain and forest landscapes.

5 The real and current threat posed to Maine's mountain
6 and forest landscapes are starkly presented in the findings of
7 the Northeast Climate Impact Assessment report, a summary of
8 which is included in my prefiled testimony and was presented to
9 you by Dr. Cameron Wake concerning the Black Nubble project.

10 The adage to think globally and act locally, which
11 was noted in last night's public hearing, is particularly
12 important in the context of global warming and wind power
13 projects.

14 The causes of global warming and impacts and
15 solutions are such a magnitude that it can lead to paralysis
16 that stems from a sense of powerlessness, that nothing an
17 individual -- or in this case the State of Maine -- can do will
18 have an impact. It is precisely that attitude, however, that
19 will lead to catastrophic consequences that Dr. Wake outlined
20 in his presentation to you several weeks ago.

21 It's true that this one project will not solve all
22 the ills of the world and that it will have an impact on an
23 undeniably beautiful part of our state, but this project, while
24 relatively small in relation to the problem of global warming
25 as a whole, is a critical part of the solution as are other

1 proposed resources of renewable energy.

2 There is a reason this project has wide spread
3 support in Maine, Franklin County, and the host community of
4 Eustis.

5 The project is consistent with Maine's participation
6 in the Regional Greenhouse Gas Initiative, and with the recent
7 legislation that requires a 10-percent increase in new
8 renewable energy sources by 2010, and it's consistent with the
9 presentation that was made to you by the commissioner of the
10 Department of Environmental Protection, the PUC, ISO
11 New England, and the Office of Energy Independence on
12 August 1st, as referred to in Mr. Wilby's testimony.

13 The short-term and long-term benefits of this
14 project, including job creation, increased community financial
15 resources, and land conservation, and particularly restriction
16 of any further wind power development in the Kibby Ranges C and
17 D, are also of value.

18 As the adverse impacts, they are minimal, essentially
19 limited to the visual impact of the turbines.

20 That factor is, as testimony in this and other
21 proceeding has made clear, a subjective one. Duluth Wing finds
22 them unacceptable; David Field, the AMT Conservancy, finds them
23 acceptable here at Kibby but unacceptable with respect to
24 Black Nubble. Former Governor King finds wind turbines a
25 symbol of hope. It's a subjective value.

1 includes wind power?

2 A. I would agree with that as a general statement.

3 Q. If electric prices go down, do consumers have more or less
4 incentive to conserve electricity?

5 A. Are you asking me to speculate as to what people are going
6 to do?

7 Q. Go right ahead, speculate.

8 A. I would give you my hope that people will, regardless of
9 the price of their electricity, will begin to conserve and
10 use it more efficiently because of other issues beyond the
11 cost.

12 Q. Do you think it's human nature that if electricity
13 continues to be expensive, consumers will not be as likely
14 to conserve as electricity becomes more expensive?

15 A. I think, just to clarify, I think that renewable sources
16 will keep energy prices down. It's not necessarily going
17 to reduce prices from what they are today.

18 The way the pricing system works, renewable projects
19 will be the first to be taken on-line, but the price of
20 that energy will be the last bit of energy in, so it would
21 be the price probably of carbon-based oil or coal or
22 natural gas.

23 Q. On the second page of your testimony you say about the
24 Kibby project that the project's strong wind resources and
25 sufficient proximity to major electrical grids and

1 transmission facilities makes this project viable.

2 Is that still your testimony today?

3 A. Yes.

4 Q. Were you aware when you made that statement that the
5 transmission line is 27.7 miles long?

6 A. I was. I think I take the same position that Commissioner
7 Laverty was expressing in his colloquy earlier today with
8 another one of the witnesses. I can't remember who it
9 was.

10 Q. Were you aware that over 23 miles of that 115kV
11 transmission line require a totally new right-of-way?

12 A. I'm aware that it requires easements and right-of-way.
13 I'm not aware of the specifics. It's not part of this
14 proceeding.

15 Q. But basically you consider their new transmission line
16 over 27 miles long, much of it in new territory, not along
17 roads or other power lines but cut through the woods would
18 be in sufficient proximity; correct?

19 A. Again, I think it's relative to where other sources of new
20 renewable power could be placed.

21 Q. But you did say in your testimony the project's strong
22 wind resource in sufficient proximity to major grid
23 facilities makes this project viable; isn't that right?

24 A. Yes, and I stand by that.

25 Q. Is 30 miles in sufficient proximity, or is it your

1 position that 30 miles also would be in sufficient
2 proximity?

3 A. I imagine it would depend on the resource and the other
4 available infrastructure that's existing or would need to
5 be built.

6 Q. So you don't really have a definition of in sufficient
7 proximity?

8 A. No; that's my opinion.

9 Q. How much of LURC jurisdiction is within sufficient
10 proximity?

11 A. I can't answer that. I don't know what you're looking for
12 for an answer.

13 LURC jurisdiction is a very big jurisdiction, lots of
14 it is not in proximity to anything.

15 Q. It sounds like from your testimony that proximity to the
16 grid was one of the factors that you considered in your
17 opinion as to whether this was a viable project; is that
18 right?

19 A. That's correct.

20 Q. Would you assume that all the areas of the jurisdiction
21 would be suitable for wind power unless there were some
22 concern you had about proximity to the grid?

23 A. I'm not sure I understand the question.

24 Q. How do you decide what's proximate to the grid?

25 A. I think, again, it's a relative approach to how far away

1 is the resource, what existing infrastructure is there.

2 Q. Do you have a formula?

3 A. No, I have no formula.

4 Q. Did you do an analysis that's written down anywhere?

5 A. No.

6 Q. It's just a judgment call?

7 A. Absolutely it's a judgment call.

8 Q. Were you aware of any plans by any landowner in proximity
9 to the Kibby project or the transmission line who are
10 looking into wind power as a possible use of their land?

11 A. I think my answer to that would be no, if I understand
12 your question. Are there other landowners within a
13 certain distance from the Kibby project that are thinking
14 of using their land for wind power?

15 Q. So you're not aware of any landowners? They haven't
16 approached you to discuss whether CLF would support their
17 wind power project?

18 A. Well, if you want to include the Black Nubble project as
19 within a certain radius, we did support that project as
20 well.

21 Q. But they were there first; right?

22 A. I have no answer to that one.

23 Q. Is there any reason why another developer in an area --
24 using your phrase -- in sufficient proximity to the Kibby
25 project would not be able to develop wind power? This

1 meaning another developer besides TransCanada.

2 A. If somebody else was developing the Kibby project other
3 than TransCanada, would they be considered in sufficient
4 proximity, is that your question?

5 Q. No, the question is whether there was any reason why
6 another developer in an area in sufficient proximity but
7 not the Kibby project itself, is there any reason why
8 another developer wouldn't be able to develop wind power?

9 A. No, not that I can --

10 Q. Can't think of any. In fact, wouldn't you see that as a
11 positive development if there were other proposals for
12 wind power in the Kibby project area?

13 A. I think that from a very general perspective if there were
14 more renewable energy projects, that's a good thing from
15 the perspective of the Conservation Law Foundation.

16 Q. Have you reviewed the original grant from S. D Warren of
17 wind and transmission rates?

18 A. No, I haven't looked at any of that, Pam.

19 Q. But you are an attorney, aren't you?

20 A. I am.

21 Q. Would you agree that the original grant from S. D Warren
22 to US Wind Power includes two sections under the paragraph
23 called Grants?

24 A. I'll say -- my testimony has nothing to do with this. I'm
25 happy to read this if you would like me to, but as an

1 attorney, you know that I will read and reread before
2 giving you an opinion, and then I'll send you a large bill
3 that doesn't make any sense at all.

4 THE CHAIR: If you want him to respond, a deed is a
5 pretty complex document to read in seconds.

6 MS. PRODAN: The heading, the single word.

7 THE CHAIR: Can you just tell us what you're after
8 here and maybe he can respond to it.

9 MS. PRODAN: He referred to proximity to
10 transmission, and I'm getting at the whole issue of
11 transmission rights and the transmission easements in the area
12 because he feels that the project is in sufficient proximity to
13 transmission, so I wanted to just ask two questions on that.

14 MR. MAHONEY: By transmission what I mean is that
15 it's in sufficient proximity to existing substations that would
16 allow the power to, once generated, be transported to the grid.

17 Now, if you're talking about the transmission lines
18 from the turbines to the existing substations, that's the
19 distance we're talking about as to the impacts of that
20 transmission line.

21 I didn't express any opinion on that in my testimony
22 nor do I believe it's before the Commission at this time.

23 MS. BROWNE: I would just offer to make a point. I'm
24 having a difficult time following the spread, and it seems to
25 go beyond the scope of any of his direct testimony; and if they

1 are going to review a document, I would just like an
2 opportunity to see the same document.

3 MS. PRODAN: Well, it was actually submitted by
4 TransCanada.

5 MS. BROWNE: Is it the original 1992 easement
6 agreement?

7 MS. PRODAN: Yes, it is; and you provided a clear
8 copy of it this summer.

9 BY MS. PRODAN:

10 Q. The question goes to whether if a new substation is built
11 for the Kibby project, would you use the same analysis for
12 future wind projects that you would consider whether to
13 support using the same distances that you used for the
14 Kibby project?

15 A. It might be a factor to consider.

16 Q. You indicated in the prefiled presentation you felt that
17 there was a strong statement by Commissioner Littell that
18 wind power was an important part of the solution to global
19 warming; is that correct?

20 A. Yes.

21 Q. Do you recall in Commissioner Littell's presentation when
22 he explained carbon offsets, he explained that these are
23 offsets that are allowed when reductions cannot be
24 achieved within the sector; is that right?

25 A. No, I don't think that's right.

1 Q. So you don't agree with the premise that carbon offsets
2 are allowed when reductions cannot be allowed or cannot be
3 achieved within the electric sector?

4 A. I don't necessarily agree with the characterization.

5 Carbon offsets are a tool by which entities who are
6 exceeding allowable levels of emissions are able to
7 continue operation, continue to purchase -- that Cap and
8 Trade system.

9 I do recall that there was some confusion initially
10 with Commissioner Littell's testimony with respect to the
11 difference between carbon offsets and displacements, and
12 that that, I believe, was clarified based on some of the
13 questions by the commissioners that the concept carbon
14 offsets are very different from the concept of
15 displacement.

16 Renewable energy as Commissioner Littell and
17 Commissioner Adams both testified, will displace other
18 more expensive sources of energy which typically tend to
19 be, at this point in time, oil and coal.

20 Q. Do you recall that Commissioner Littell said that the six
21 categories for carbon offsets are approved to get
22 additional carbon reductions; do you recall that?

23 A. In some states that is moving forward as a RGGI rules,
24 which the State is in the process of doing -- at least the
25 State of Maine is currently in the process of doing.

1 Q. Do you recall that he said that -- in his presentation
2 which has been submitted as a document in his
3 proceeding -- that he said, I did this primarily -- in
4 other words, including the six categories -- so that you
5 can see that renewable, at least wind power, is not one of
6 them, meaning not one of the categories. The renewable
7 option that's on here is landfill gas capture. The reason
8 for that is there was a good deal of debate within the
9 RGGI group, and our decision was only to approve those
10 offsets in which there was unquestioned science showing
11 that you will achieve real carbon reductions, and these
12 were six categories in which enough scientific study had
13 been done to show that.

14 Do you recall that?

15 A. I take your word for it, Pam. I don't recall specifically
16 but I take your word for it.

17 Q. You made a very strong pronouncement in your testimony
18 about climate change when you said, "There's no debate
19 about solutions," didn't you? Is that still your
20 testimony today?

21 A. I thought I said there was no debate concerning existence
22 of climate change.

23 The issue of solution is one where there probably
24 will continue to be debate. In my testimony, as in prior
25 testimony, we outlined that there is a toolbox, a variety

1 of solutions, to this problem.

2 There's no one single silver bullet and that it will
3 take a combination of a number of actions to get us there,
4 primarily in renewable sources, more efficiency, and a
5 decrease in our demand, which is probably one of the
6 biggest ones, and new technologies.

7 Q. So are you acknowledging today that there is debate about
8 solutions?

9 A. I don't think there's debate about what the solutions are;
10 the debate is to what extent should one solution be used
11 over another?

12 Q. In your discussion of the science magazine article in your
13 testimony there's a number of wedges of the pie depicted
14 that are said would be needed to stabilize the climate,
15 and you say there were seven wedges but you only portrayed
16 five; correct?

17 A. I think that's right.

18 Q. Would you agree that some of the obvious things that
19 individuals can do here in Maine are not included in this
20 pie or at least the ones you presented, such as wood heat
21 and solar domestic hot water?

22 A. I think that's correct.

23 Q. And isn't it true that these wedges portray, for the most
24 part, technological solutions that have nothing really to
25 do with what the average person is capable of doing?

1 A. I think those approaches would fall under renewable
2 sources of energy. My testimony I focused on wind power
3 but I would agree.

4 Q. Do you acknowledge that there's nothing in any law,
5 including LD 1920, which was actually passed or the public
6 utilities law or LURC's law that requires approval of this
7 particular wind plant?

8 A. Well, the decision as to whether or not approve the zoning
9 petition rests with the Commission, and that decision is
10 to be based on the law and the regulations that are
11 applicable to the application.

12 I think part of that consideration would be
13 consideration of 1851, LD 1920 as far as whether or not
14 those, in my opinion, satisfy the demonstrated need
15 criteria which is part of what the Commission needs to
16 consider.

17 Q. But there's nothing in the PUC's laws or the comments that
18 they've made that requires approval of the Kibby project;
19 isn't that right?

20 A. No, I don't think any of those are binding on this
21 Commission to say that, to approve this project.

22 Q. Would you agree that there have been not grid studies
23 showing which, if any, dirty plants will be forced to
24 reduce emissions if this project is built?

25 A. Yeah, further none of the dirty plants are going to be

1 shut down because of this one project. I don't think
2 anybody is saying that.

3 Q. Would you agree there have been no studies done to show
4 how often the introduction of wind power from Kibby onto
5 the grid would actually lower the clearing price and thus
6 the cost of electricity to Maine consumers?

7 A. I don't think I can say that. I would imagine the
8 applicant may have done some of those studies to determine
9 the economic feasibility of the project. I haven't any of
10 those studies if that's what you're asking.

11 Q. Do you think the applicant did studies to see how often
12 their plant would actually lower the clearing prices for
13 electricity?

14 A. No, that's not what I -- what I said was I would imagine
15 that as part of the economic viability analysis they would
16 have looked to see how often power generated from Kibby
17 would have been picked up from the grid, and since the
18 cost of renewable energy is minimal compared to other
19 costs that most likely when it's generating power, it's
20 going to be picked up on the grid.

21 Q. What studies have you seen to show this?

22 A. That's just the practice of the market.

23 Q. It's not studies, in other words?

24 A. It's the day-to-day practice of the energy market in
25 New England.

1 Q. Have you seen any scientific evidence that the Kibby
2 project would reduce emissions and thus slow global
3 warming?

4 A. No.

5 Q. So you've just seen projections by the applicant and
6 assertions?

7 A. No; again, as I said, the operation of the market, if the
8 project is approved and if it generates power, that power
9 will go onto the grid and that power will displace power
10 from more expensive sources which will tend to be power
11 from oil- or coal-generated facilities.

12 Q. Have such studies been introduced into the record in
13 either the Black Nubble proceeding or the one at
14 Redington?

15 A. I believe that the presentations on August 1st, the
16 presentation by ISO New England and the Energy
17 Independence Office were, I believe that's part of their
18 testimony. Don't hold me to it.

19 Q. Going back to what Commissioner Littell stated at the
20 August 1st meeting, you don't deny that he said that there
21 was a good deal of debate within the RGGI group, and they
22 decided that they would not include wind power as one of
23 the options for carbon offsets because there was no
24 scientific evidence -- there was no unquestioned science
25 showing that real carbon reductions could be achieved?

1 A. I don't think I agree with that. Even if that was
2 Commissioner Littell's position, CLF would not support
3 that position because we would believe that renewable
4 sources should be considered as part of the offsets, but
5 that process is underway with the ongoing RGGI rulemaking.

6 MS. PRODAN: Thank you.

7 MR. MAHONEY: Thank you.

8 THE CHAIR: Commissioners, any questions? Rebecca?

9 MS. KURTZ: (Indicates no).

10 THE CHAIR: Steve?

11 MR. WIGHT: (Indicates no).

12 THE CHAIR: Ed.

13 MR. LAVERTY: Mr. Wilby, I just want to follow up. I
14 unfortunately was not here for part of the testimony that
15 discussed the province of Quebec's approach to issuing an RFP.

16 EXAMINATION OF DAVID WILBY

17 BY MR. LAVERTY:

18 Q. You did mention it, and I just thought I would take this
19 opportunity to explore that a little bit? You suggested
20 that the process is not unlike that which is used here in
21 the state of Maine.

22 Isn't it, though, the case that LURC, as has been
23 demonstrated in the last few months, deals with
24 applications as they come, deals with it discretely, it
25 doesn't have the capacity to compare one project with

1 another?

2 A. I would feel more comfortable letting you tell me exactly
3 what you're asking.

4 Q. What I'm suggesting is that I find this whole idea for the
5 Commission, a governmental entity, although it is not now
6 captured within the rubric of our regulatory approach of a
7 governmental entity issuing an RFP for X kilowatt hours
8 and then allowing various entities in competition with one
9 another to submit RFPs and allowing the governmental
10 entity to compare those and to identify projects that it
11 turns out, perhaps, efficiencies, in terms of capacity, in
12 terms of siting impacts, and make decisions on a
13 comparative basis that that might not be an advantage from
14 a regulatory perspective?

15 A. I think you can argue it both ways. My point is
16 essentially, this is the system we've adopted with the
17 RPS, and basically it's we'll throw a target out there,
18 we'll throw some policies out there, and let the market
19 sort of determine rather than government receiving RFPs.

20 Now, there was a time not so long ago when
21 essentially that RFP process in essence existed when
22 utilities owned and operated all the generation.

23 Q. That would have been conducted by the PUC; correct?

24 A. It would have been conducted by the PUC. No, the energy
25 aspect of that would have been conducted by the PUC. That

1 would not suggest that in that era a project that was
2 going to pursue contract through that process in those
3 days may not have needed to come right here -- or the
4 DEP -- in fact that did occur.

5 I can remember a site, for instance, Greenville Steam
6 Company, which got a contract in those days with CMP under
7 that system. They had to go through a very complete
8 process with DEP, so they were separate; but yes.

9 Q. But the initial determination of public benefit based on
10 the energy policy considerations was made by an entity
11 other than, in this case LURC, or DEP?

12 A. Yeah, I am a little unclear as to the sequencing, whether
13 it was an initial; but yes, I think I absolutely agree
14 with your fundamental points that that determination was
15 made by energy regulators essentially.

16 Q. In your view, even though we then moved in the State of
17 Maine to a process of deregulation where the PUC no longer
18 undertakes that role with regard to specific projects,
19 that the legislature through several legislative
20 pronouncements have been referenced here today, as well as
21 PUC through it's both policy statement and rules, and
22 through the executive office --

23 A. Office of Independent Energy and Security.

24 Q. -- that there have been statements with regard to the
25 public benefits, alternative renewable energy sources, and

1 BY MS. KURTZ:

2 Q. There's no unquestioned science that wind power will
3 provide offsets.

4 Since we've been looking at wind power for a couple
5 years now, back and forth, back and forth, and back and
6 forth, and I understand and respect your -- Sean -- you're
7 respectfully not supporting what Mr. Littell said, and I
8 just wondered what science you have, if you're saying that
9 there is no unquestioned -- his assertion is there's no
10 unquestioned science, what science -- help us -- what
11 science do you have that shows there is a carbon offset?

12 A. First I want to say I agree. The first part of Sean's
13 response to that question was that he didn't think that
14 Commissioner Littell said that in those words, and I
15 absolutely agree. I was there that day and I had spoken
16 to the commissioners since on that very same topic.

17 It's confusing enough to make my head hurt, so I
18 question my ability to explain it.

19 Commissioner Littell was very clear that wind energy
20 will displace fossil fuel, in fact, fossil fuel-fired
21 generation. In fact, here's one of his slides of Page 18
22 of the slides which has been entered into the record says
23 exactly that: Wind energy, as available, will displace
24 fossil fuel-fired generation in the regional power pool.

25 That was, in his mind, unquestionable and I assume

1 scientifically and technically tested.

2 What he was saying is that within the RGGI program,
3 the offsets -- the decision was made during the
4 development of that program, and I personally went to
5 meetings in Boston and other places to sit in on many of
6 those discussions and I heard first-hand some of those
7 conversations -- and in the end they decided to only
8 provide offsets to things that could be done that had a
9 direct, you do A, and B happens, B being carbon emissions
10 are reduced.

11 Anything that was, you do A and B happens and then C
12 happens, and C is carbon reduction, they weren't going to
13 put that -- within the offset -- they all understood and
14 appreciated the fact that there was a displacement effect
15 occurring but that wasn't going to be pulled into the
16 program and offsets awarded under those circumstances.

17 There are a lot of reasons -- some of which I can
18 articulate, some of which I don't fully understand -- why
19 they made that determination, but it had to be that
20 direct.

21 So if you look at the list of the offsets -- I don't
22 have it in front of me -- but it was a very direct thing.

23 So something like wind power that causes, which
24 causes an action like carbon displacement, was not
25 included in the offsets, but it doesn't reflect on the

1 science that wind energy will displace fossil fuel. It
2 will displace carbon reduction and emissions. So it's
3 between the direct and the indirect.

4 If a carbon-based fuel source reduces its emissions,
5 those will qualify as offsets. If a wind farm operates
6 and puts 50 megawatts onto the system, onto the power
7 system, which will undoubtedly -- as Commissioner Littell
8 said -- displace 50 watts of oil- or coal-powered energy.
9 That 50 watts of coal-powered or oil-powered energy won't
10 go on the grid.

11 That, while it displaces it, won't qualify for
12 offsets, which can be used -- which offsets are like chips
13 which then can be used essentially to make money. It
14 costs maybe, I don't know, an oil-powered facility, I'm
15 going to reduce my emissions by 5 tons.

16 It's going to cost me, the technology or whatnot, to
17 reduce the efficiency that we put in, \$100,000. I'll get
18 5 tons of offsets for that. That has a value to it that
19 somebody who can't reduce their emissions and is over
20 their limit is going to need to buy in order to keep
21 operating.

22 I know, I'm sorry.

23 THE CHAIR: I was going to say thank you. That's
24 probably the most clearest statement we've ever heard about it.

25 MR. MAHONEY: So what I disagreed with is not the

1 science but the policy decision not to include wind power
2 generation within the set of actions that would qualify for
3 offsets. That's what I would disagree with. I think that
4 should be included within the potential in this process. Right
5 now it's not.

6 BY MS. KURTZ:

7 Q. I think follow it. Hopefully the rest of these guys did.

8 I guess the next question that I have to ask though,
9 will this -- what we have to look at in this particular
10 project not one planned in X, Y, or Z, but this particular
11 project, there was testimony made suggesting that if due
12 to the limited capacity of transmission line this project
13 were permitted, if there were two wind projects on that
14 transmission line, the one that would be shut down would
15 be the biomass plant in Wyman, and I just have to question
16 whether this particular project is going to result in the
17 kind of carbon reductions of the whole grand scheme of
18 wind power?

19 A. I don't think that premise is correct. I would suggest
20 that when the PUC is here they can clarify that. My
21 understanding is that that is not correct, that the
22 capacity will be improved in order to handle that load,
23 that means adding more capacity to existing lines. That's
24 what will have to be done.

25 Again, it's beyond the scope right now of what's in

1 front of you, although I understand from a practical point
2 of view you don't want to have to permit these if we can't
3 get the energy to the grid.

4 That, based on what I've heard, is not an issue.
5 Obviously the applicants wouldn't be here if it were, and
6 I believe that Mr. Tannenbaum from the PUC may be able to
7 add some more to that.

8 MS. KURTZ: Thank you.

9 THE CHAIR: Go ahead, Ed.

10 MR. LAVERTY: I kind of hoped they we wouldn't have
11 to get into this. Let me see -- I realize that this is
12 cross-examination. The difficulty we're having, at least I'm
13 having -- I don't want to speak for everyone else -- is that
14 when you look at the output of a particular facility of a
15 particular project, and that output goes into a grid, and based
16 on displacement displaces energy from other places throughout
17 the grid, it is exceedingly difficult, if not impossible, as
18 science has advanced, to trace the electron from this project
19 to an identifiable specific reduction cause and effect
20 reduction somewhere else.

21 In the aggregate it's easy to do. It's a
22 methodological epistemological problem. We, in our regulatory
23 regime, are supposed to make findings based on a particular
24 project.

25 It's exceedingly difficult to do that, it seems to

1 me, and this is the issue that we've got. It is almost
2 impossible to make a finding that a particular electron
3 generated at this facility, what it's going to do once it gets
4 into the grid.

5 Therefore, it seems to me, what we need to do is we
6 need to recognize the limitations or the ability to do that and
7 accept the aggregation and disaggregation of information based
8 on the activity of the grid as a whole.

9 I think the problem we're trying to deal with here
10 is, if you say, you know, take an electron -- I remembered
11 someone last time said, you cannot follow a specific electron,
12 so you have to disaggregate from the activity of the grid as a
13 whole and say generally speaking this amount produced here will
14 in aggregate reduce or displace something over here, but to
15 actually follow the cause and effect relationship, which we are
16 used to doing in terms of site-specific impacts of projects,
17 may be an inappropriate regulatory approach to undertake.

18 MR. MAHONEY: Let me make a comment, Commissioner
19 Lavery. I think -- I understand your point with respect to
20 the electron. The difficult part is what you can't do, what is
21 the epistemological, is trace the electrons generated, let's
22 say the project is approved, the Kibby project, to trace those
23 electrons to a specific house or business or end user.

24 However, what you can do, what is undebatable, is
25 that if 100 megawatts of power are generated at that facility

1 and transmitted to the grid, then 100 megawatts of other power,
2 existing power, will be displaced and that power will be
3 carbon-based power. That's undeniable and there's no debate
4 about that.

5 So the real question, the struggle -- and I agree
6 with you and I know Commissioner Harvey, I think, is struggling
7 with this, too, what's the benefit for Maine if this is going,
8 we're generating it here, and it's going to end users someplace
9 else within the New England power pool.

10 MR. LAVERTY: And that may change.

11 MR. MAHONEY: And that may change, and it may be
12 here. Somebody talked about how Sugarloaf is buying wind
13 power. Well, where are they getting their wind power? You
14 can't say -- and quite frankly, they can't really say that they
15 can be 100 percent certain that the power that they're using is
16 generated by wind.

17 It's a leap of faith type of issue. They're paying
18 for it and they may be paying a premium for it to get this.

19 So I understand where the struggle is. I think that,
20 again, as Chairman Adams and Commissioner Littell had said,
21 there are undeniable benefits, real and tangible, in Maine
22 regardless of whether that electron turns a light on in
23 Hartford or Portland or Eustis, and it has to do with not just
24 CO₂ reductions within the region and Maine but also other
25 reductions and more standard criteria pollutants, particulate

1 matter, SOX and NOX.

2 So the real balancing that you all have been
3 struggling with is what are the benefits in Eustis, and LURC,
4 in Maine, and New England as opposed to what are the down
5 sides, which are some of the things that Mr. Kimber talked
6 about. That's a difficult role for you to have.

7 Obviously we feel very strongly from our point view
8 that it's a tradeoff that is very much one that is a positive
9 one for the state and one that we really need to make before we
10 deal with some of those issues.

11 MR. WILBY: A quick example, maybe, and we call it
12 the power pool for a reason and for the reasons you essentially
13 outlined. It's a pool, and you toss your energy in one end,
14 and pretty quickly it's in a pool, just like when you throw
15 water into the pool, you can't tell which water you threw in.

16 But let's say, for instance, Sean's office is next to
17 TPL's 20, 23-megawatt hydro facility on the lower Androscoggin
18 between Brunswick and Thompson, it's generating today. Let's
19 say tomorrow, for some technical reason, they've got a problem
20 with a turbine, they're off line.

21 You can compare the two days in the grid and see that
22 there's going to be tomorrow another 20-something megawatts of
23 the marginal producer, which is most days it's going to be
24 natural gas, 21 megawatts are going to be made from natural gas
25 tomorrow than would have had to have been made but for that

1 the cost of operating is minimal, if nothing, once your
2 capital costs are paid, as opposed to the cost of
3 operating a coal-fired, pulverized coal plant or a natural
4 gas plant, which takes energy and feed stock.

5 For renewable projects, once you're up and going,
6 you've got water, you've got wind, you've got tides and
7 you're not paying for it.

8 So they're always able to -- so as long as the
9 resources are there, they're always able to get into the
10 grid and they're always going to be able to sell to the
11 grid. That's not true with the marginal producers.

12 MS. HILTON: Okay.

13 THE CHAIR: Gwen, just listening to the answer here
14 on one question, it's not my job to testify or correct people,
15 but I don't think I would agree with you on your answer about
16 the coal. You can't turn coal plants on and off instantly.

17 MR. MAHONEY: I think that's right. Relatively
18 speaking, there's a switch. It does take some time to fire
19 up -- cycle up -- and cycle down.

20 THE CHAIR: Thank you.

21 MR. MAHONEY: Thank you, Mr. Chairman.

22 THE CHAIR: The problem we have, a lot of us, this is
23 the third hearing we've gone through. There's thousands of
24 questions that we'd like to ask or things we'd like to talk
25 about. Once we're done, we can't talk to anybody, so I'm stuck

1 with asking some things here that the parties might object to
2 as being irrelevant, and I'll let them do that if they wish.
3 I'm sorry, but it's the only way we can talk about this is
4 obviously in a public forum.

5 You mentioned that this project was consistent and
6 others have been consistent with public policy; but I'm
7 wondering how consistent has public policy been with respect to
8 energy in the State of Maine?

9 My experience -- and I'm not directly related -- but
10 I've been through a lot of -- it's been very choppy and we've
11 incentive-ized things and then we take away the incentives, we
12 shut down, we start, we stop. I would only like your view on
13 how wind power might -- what's going to happen to wind power.
14 I hate to see it get caught up in this choppiness that we've
15 had, that we don't seem to know what we want to do.

16 MR. WILBY: I think that's a very valid observation.
17 I think that would apply to most types of public policy.

18 It's a fact of democracy and it's a fact of
19 governors, legislators, president, they come and go. We could
20 obviously be very consistent if we had a King, but I would --
21 I'm not saying that to make light of the observation of energy
22 policy. It may have been a bit choppier than many, maybe not
23 the choppiest, but I think -- my -- I don't have a crystal
24 ball, but my sense is that we're at the beginning of an era
25 where wind power is going to be I think a very important piece

1 of the energy picture, and so I think we're going to have quite
2 a bit of time before that's going to change.

3 We're in the early stages -- not in the middle or the
4 late stages -- when something is likely to change. I think
5 this is going to be part of policy for a good long time.

6 The slide showed earlier illustrated the demand in
7 2015. There are policies in place today that are out a decade
8 or more. And particularly with wind being such a long-term
9 resource, once you spent the capital on that, the value is
10 there and you're going to want to produce energy from it.

11 I sort of make the analogy, if you went to a theme
12 park, you put your money in upfront to get inside. Once you're
13 in you're in, you're in. You're not going to leave until
14 you're done with the theme park.

15 If something changes, you're still going to be there
16 because the capital is up front. With other types of energy
17 policies and energy generators that are more fuel dependent,
18 every single day you can get up and make that determination of
19 is it in my economic interest to put money -- to put fuel in
20 the boiler today or not. Once the wind facility is built, it's
21 in your economic interest to produce every single time you can.

22 I guess to answer your question, I think this is here
23 for a long time, and I think energy policy will come and go,
24 but I think this is going to be a piece of it for quite a
25 while.

1 MR. MAHONEY: I would agree with that. I can
2 understand where you're coming from if one looks at the
3 development of hydro power. That's gone up and down all the
4 time.

5 I think the issue of hydro power is that we really
6 don't have any -- there are few untapped resources -- but it's
7 unlikely that those are going to be tapped in the future. I
8 can think of the Big A project.

9 Now, we do have efforts where some dams are being --
10 there are cooperative agreements to take them out, restore some
11 rivers, but those are fairly creative. The work that's being
12 done on the Penobscot with taking out two dams but increasing
13 the size of another so that the same amount of energy is being
14 produced, thus freeing up a big stretch of the river, that's a
15 real creative solution to addressing some of the impacts of
16 hydro as well as maintaining the same amount of energy.

17 I guess the other thing I say is the market drives a
18 lot of it as well. Solar technology has been something that's
19 been pushed for a while but we can't get past that threshold,
20 whereas wind is something that there is a lot of market
21 movement for that.

22 MR. WILBY: One quick thing I should have added is
23 that these wind policies are not a partisan matter, and that
24 should give you some sense of their sustainability.

25 On the federal level, republicans, democrats control

1 the White House, they control Congress. They've all pushed in
2 the same direction on these issues. The same in Augusta.

3 So I don't think this is a situation where if one
4 party or one group of people leave office that you're going to
5 see a change on this. This is something that is a bit more
6 stable in my view.

7 MR. LAVERTY: In the spirit of being able to talk
8 about things in this forum that we can't talk about otherwise,
9 and taking advantage of you unmercifully to do that, the
10 business about the persistence of this policy, I mean, I have
11 to say that I was on the Board of Environmental Protection
12 during the 1980s when we licensed numerous -- in the space of a
13 very few years -- numerous biomass energy facilities throughout
14 the state of Maine, and it was at a time following, I think,
15 the Natural Energy Act of 1978, and the concern there was the
16 shortages of petroleum and displacing petroleum. You needed
17 energy that produced power from a source other than petroleum,
18 displaced petroleum energy, received a preferred rate in the
19 grid.

20 This then created an incentive along with, quite
21 frankly, temporary tax reductions in the early '80s, you know,
22 25 percent across the board, elimination of capital gains for a
23 whole bunch of people to take advantage of PURPA rates to build
24 these projects, and we built them all over the place. When the
25 PURPA rate was withdrawn, they were all mothballed.

1 Now, you argue that they're up and running again
2 today, but to say because a project is built, you know, the
3 amusement park analogy, my experience has demonstrated that it
4 has a lot more to do -- not so much with the energy needs --
5 but with the financing mechanisms and the tax mechanisms that
6 are in place that create incentives or disincentives of certain
7 types of projects to be built irrespective of their long-term
8 sustainability or their actual contribution to energy.

9 So I guess one of the things -- and I don't know how
10 to say this, I don't mean to imply -- that any of the projects
11 before us are constructed this way, and I mean constructed in
12 terms of the deal that's being put together where it's to put
13 the project together becomes fundable, let's settle with the
14 management company what the management company wants and go on
15 with it, but I have to say that I think there is some concern
16 about given if for some reason -- what are we dealing with,
17 \$80.33 a barrel today, as we speak, something like that -- we
18 drop down to 65 or \$60 a barrel for whatever reason, what's
19 going to happen to the viability of these projects?

20 So I think the notion that once they're built they're
21 going to continue to the operate to me doesn't completely
22 satisfy.

23 MR. WILBY: If I can -- and I should have made that a
24 little clear on my comment earlier about you get up in the day
25 and decide whether to put fuel in the boiler. That applies to

1 the biomass situation. So representing most of the State's
2 biomass facilities, I'm acutely familiar with, a biomass
3 facility in fuel costs is an enormous part of their economics.

4 The fuel costs of a wind facility once built is quite
5 easy to calculate, it's zero. And so the capital cost up front
6 is the key question.

7 Once you get that capital cost at some common ground,
8 you won't operate. As opposed to a fuel-driven generation
9 facility, which has very different day-to-day economic, sense
10 of economics, it's one of the reasons why wind, until recently,
11 has been challenging to do financially because you have to put
12 all your money up front, whereas a natural gas facility, it's
13 quite cheap on the capital side to build, it's every single day
14 paying for the fuel down the road, but from a development
15 standpoint that's easier.

16 So there's a real distinction in my mind -- I'm
17 trying to draw here -- there is a real distinction between
18 facilities you develop that have a fuel cost -- and no
19 biomass -- and those you don't, like hydro and wind.

20 Once you've sunk that, you just want to -- you've got
21 to run the thing. Even if you're only going to get 98 cents
22 back on your dollar, 98 cents is better than zero.

23 MR. LAVERTY: Thank you, I think that's an excellent
24 point. What about the subsidy part of it?

25 MR. WILBY: Well, generally I would say -- I would

1 say first, this is my personal opinion and I don't know whether
2 TransCanada or any other developer agree with this -- but I
3 think wind power would be better off in the country from a
4 financial standpoint if every single energy subsidy
5 disappeared.

6 The problem is that every other type of energy is so
7 heavily subsidized that the wind production tax credit is only
8 sort of chipping into the advantage that the other types
9 already have.

10 If you pull a dollar out of your pocket to represent
11 the amount of federal energy subsidies that come from your tax
12 dollar, 1 penny goes to wind; 99 cents goes to coal, oil,
13 et cetera, et cetera. If you want to talk about, again,
14 ethanol, said Sean, very heavily subsidized.

15 So this notion that wind is somehow incentive-ized or
16 subsidized out of line is just not correct, and, in fact,
17 again, it also seems we've done away with it. Probably wind
18 energy would come out probably ahead of the game, frankly.

19 I don't know if that answers your question but I
20 think it's an important point.

21 MR. MAHONEY: I was just going to make the exact same
22 point. All of our energy is subsidized. Unfortunately, the
23 tax policy, our taxes tend to be the way we implement public
24 policy, and wind is the new kid on the block and its share of
25 that tax benefit is minute compared to big coal and big oil and

1 ethanol, big ethanol.

2 THE CHAIR: Were either one of you here last night at
3 the public session? Did you hear -- I don't know if it was
4 Senator Gooley or Representative Carter spoke.

5 MR. MAHONEY: I was here for both those gentlemen.

6 THE CHAIR: One of them I mentioned something about
7 1000 megawatts thing.

8 Do you know what he was -- the site, I don't know if
9 he was talking about the siting commission or somebody decided
10 that we needed 1000 megawatts of wind power or something like
11 that in the state of Maine.

12 MR. MAHONEY: That was in reference to the wind power
13 commission. I'm assuming Senator Gooley -- I don't want to
14 change his title, he used to be a representative -- serves
15 along with a number of us here today on the Wind Power Task
16 Force, and 1000 has been bantered about. It has not been
17 landed above by the task force, at least, as the goal.

18 One of the responsibilities that the governor gave us
19 in his executive order was to in fact try to put up a target of
20 maybe 1000 megawatts by 2020 or what have you. I'm just making
21 it up.

22 But that has been truly a discussion phase, it's been
23 no specific number adopted. It does reflect -- 1000 does
24 reflect some factors out there. I think that's what he was
25 mentioning.

1 Separate from that, Conservation Law Foundation and
2 Natural Resources Council of Maine, the Union of Concerned
3 Scientists, and others are beginning on a scientific study of
4 what wind resources we have in the state.

5 There's been a number that's been banded about, which
6 I think was 8000 megawatts, but that, quite honestly, is kind
7 of the back of the envelope estimate.

8 The idea of our joint efforts is trying to get some
9 real substance that's separate and apart from the governor's
10 task force.

11 THE CHAIR: At some point I would assume it might be
12 helpful to know that kind of stuff. It's obviously not going
13 to have any impact on these deliberations that we're going
14 through at this point.

15 Well, I think we've probably exhausted ourselves and
16 you, so we really thank you for this discussion. I appreciate
17 the parties allowing us to indulge ourselves a little bit in
18 perhaps some of the far reaching discussion here, but it kind
19 of helps us put this all into perspective.

20 So thank you very much.

21 MR. MAHONEY: Thank you. Again, I would echo what
22 Dave said at the outset of his testimony, you have a very
23 difficult task that you do with a lot of grace, especially you,
24 Chairman Harvey.

25 THE CHAIR: All right. The last part of this

1 schedule is to allow the parties who wanted to -- and I guess
2 the Commission as well -- to ask questions of the State
3 representatives who commented on this application, and I
4 believe that Mitch Tannenbaum and Dave Rocque are here, and
5 Steve Timpano from the Fish & Wildlife.

6 If those folks -- I believe some are coming into the
7 room.

8 Come on right down and sit at the table.

9 Do you have questions of these people?

10 MS. BROWNE: I do for IF & W; I just wanted to
11 reserve the right to ask questions of Mitch Tannenbaum and Dave
12 Rocque based on what comes out through --

13 THE CHAIR: We'll let Pam go first, and she asked for
14 50 minutes. Good afternoon Mr. Rocque.

15 MR. ROCQUE: Good afternoon.

16 EXAMINATION OF DAVE ROCQUE

17 BY MS. PRODAN:

18 Q. Do you recall writing a memo to Mr. Frick in the
19 Black Nubble zoning proceeding responding to some e-mail
20 messages on soils?

21 A. Yes.

22 Q. Do you have a copy with you today?

23 A. I don't.

24 Q. In that memo you stated that because you believe that
25 mountaintops are one of the most suitable sites for wind

1 power generation and the wind power zoning applications
2 are therefore, you mean, you would not recommend denying
3 them; isn't that right?

4 A. I'm not sure if I said it exactly that way but I was
5 inferring that because of the uniqueness of mountains and
6 that is a suitable location that that was a justification
7 that I would have for if there was any building of roads
8 to get there.

9 Q. Fair enough. So in other words, you would not say today
10 that this project should be approved, but you would not
11 also say that it should be denied; isn't that right?

12 A. That's right.

13 Q. And that's consistent with you not being a regulator
14 yourself; is that right?

15 A. That's right.

16 Q. Instead, you -- it's my understanding -- and you can
17 correct me if I'm wrong -- instead your job is to assure
18 that development is being done in the best possible way;
19 right?

20 A. That's part of it, but I also think on rare occasions I do
21 recommend denials when conditions are poor enough to
22 warrant it.

23 Q. That would mostly be in rezoning situations where it is
24 not one of the -- one of the -- excuse me, let me restate
25 that question.

1 You might recommend disapproving a rezoning if you
2 did not believe that the location was required for the
3 project, in other words, like on a mountain where the wind
4 resource is?

5 A. Yeah, I would probably -- if it was a suitable location to
6 build the roads and somebody felt it was suitable for wind
7 power, I would probably not get into that part.

8 My biggest issue would be the soil and water
9 resources.

10 Q. Okay. However, it actually is true that you are on record
11 as saying that the soils in both the Kibby project area
12 and Black Nubble project area are not suitable for
13 development right?

14 A. Yes, there are severe limitations based upon soil
15 potential ratings.

16 Q. As you've described in your memo to Mr. Frick, it's your
17 position that the lack of suitability of soils for road
18 buildings doesn't mean that roads can't be built; correct?

19 A. That's correct.

20 Q. In the Frick memo you were quoted as having said that you
21 struggled -- actually what he did was he took an excerpt
22 from another document and in that document you were
23 quoted --

24 MS. BROWNE: Who's he?

25 MS. PRODAN: We're still talking about Mr. Frick and

1 his correspondence that's referred to in Mr. Rocque's memo.
2 Still in that one document, the Frick memo.

3 BY MS. PRODAN:

4 Q. Do you recall that in the Frick memo -- I think it's
5 actually on the third page near the bottom -- you were
6 quoted by Mr. Frick in this excerpt as having said that
7 you struggled to come up with what may be suitable
8 techniques to overcome the unique challenges of building
9 roads up to a northerly mountain, particularly with
10 respect to hydrology; correct?

11 A. That's right.

12 Q. You have a couple of caveats in your memo, one of which is
13 where you say -- and this was also quoted by Mr. Frick --
14 I cannot say with certainty that they would work as
15 proposed because they've not been used so extensively in
16 similar settings that I'm aware of; is that right?

17 A. That's right.

18 Q. Are you any more or less certain today?

19 A. No.

20 Q. Is this still your testimony today?

21 A. Yes.

22 Q. In your answer to Mr. Frick you say something similar,
23 that they "are the most appropriately available and should
24 work but they're not proven, at least on such large-scale
25 projects in Maine. So there is a potential for problems."

1 Is this still your testimony today?

2 A. That's right.

3 Q. It sounds like you do have some level of doubt as to
4 whether these techniques will really work, don't you?

5 A. Yes, and by working, that means the hydrology, not just
6 structurally.

7 Q. Are you aware that in fact post construction monitoring
8 was recommended in the memo from Mr. Timpano?

9 A. No.

10 Q. But back to your position, so you say the techniques
11 should work, but if you can't remove that doubt, you
12 probably can't give full-fledged assurance to the
13 Commission that they will work to protect the resource;
14 right?

15 A. That's true, and that is true basically any time
16 anything's done, it depends on too many variables.

17 Q. Do you recall your memo for Plum Creek in the Plum Creek
18 proceeding and your discussion on soil suitability?

19 A. Yes, I do.

20 Q. Did you say in that memo it's your professional opinion
21 that the test for rezoning should be the natural
22 suitability of the area for the intended use, not whether
23 or not soils and slope limitations can be overcome by
24 engineering regardless of the degree of engineering
25 required?

1 A. Yes, I remember saying that.

2 Q. Is that because with technology and equipment today a lot
3 more actually can be done to overcome the limitations?

4 A. That's not entirely the issue. The issue is the overall
5 impact on an area with doing certain types of development
6 projects. That was the biggest issue.

7 Q. And in the Plum Creek memo, did you not state, by focusing
8 on these slopes and soils that are suitable for
9 development, more passive engineering --

10 THE CHAIR: Pam, excuse me. What did I ask about
11 Plum Creek? I'm not sure what the relevance of Plum Creek is
12 to this proceeding.

13 I need you to kind of skip that if you can. I'm
14 trying to avoid discussion of Plum Creek because it's such a
15 big issue for us otherwise. I don't want to create problems
16 for this Commission.

17 MS. PRODAN: I'm sorry, I will rephrase the question.

18 THE CHAIR: Thank you.

19 MS. PRODAN: I apologize. Since I'm not involved in
20 Plum Creek, I wasn't thinking about that. I apologize.

21 BY MS. PRODAN:

22 Q. What is your position concerning the use of passive
23 engineering techniques, in other words, what I'm asking
24 is, why do you prefer that passive engineering can be
25 used, if that is your position?

1 A. I much prefer passive engineering techniques because if
2 they need to be maintained, the odds are they won't be
3 well maintained, and if they're not, there may be some
4 issues.

5 If you have passive techniques that don't need the
6 maintenance, so therefore they're more likely to work.

7 Q. Did you see the review comments of the DEP's Jeff Dennis
8 in this Kibby proceeding?

9 A. No, I didn't.

10 Q. They are in the record already.

11 Are you aware of the review comments now of Jeff
12 Dennis in which he stated that for the Kibby project
13 TransCanada plans to super elevate the roads?

14 A. I was actually at a meeting with Jeff back probably last
15 winter when we talked about road building techniques and
16 came to some agreements on what would be probably the most
17 appropriate techniques to use.

18 Q. With regard to super elevated roads, would you agree that
19 this type of road would require fairly exacting
20 construction techniques?

21 A. Probably not any more so than otherwise would be required.

22 Q. But would you agree that they do require maintenance?

23 A. I suspect any road that's going to be built most anywhere,
24 particularly in the mountains, would need maintenance.

25 Q. Are you aware of Mr. Dennis' comment that since the

1 treatment of roads are not -- the roads are being super
2 elevated instead of crowned, LURC will have to consider
3 how best to ensure that they're maintained in a super
4 elevated condition and are not accidentally graded with a
5 crown in the future?

6 A. I'm not familiar with that, but I'm sure you're right,
7 that's what it says.

8 Q. Could you check that.

9 The reason why I'm asking is I want to ask you a
10 question.

11 Do you consider that practice -- roads that do
12 require little or no maintenance are much less likely to
13 fail and impact natural resources that are protected?

14 A. That's correct.

15 Q. So a road that has no maintenance would have less
16 likelihood of failing and impacting a protected natural
17 resource?

18 A. If it was built properly, and it doesn't just have to be
19 super elevated. It can also have a rock sandwich and be
20 crowned and that would still serve the same purpose.
21 There are other ways of doing it.

22 Q. Well, we don't have time for a soil lesson today, but I
23 think that's a basic question about mountain soils.

24 First, are the soil units or series in the Kibby
25 project area the same as the soil units found in other

1 townships in western Maine?

2 A. In the mountain areas they should be fairly similar.

3 Q. Would you agree that in the Maine mountains where there's
4 a thick organic cover for the top of the soil, there's
5 very little surface runoff in the natural state?

6 A. Except in the spring when the ground is frozen, there's no
7 effects, yes.

8 Q. When the soils are in a natural state, does most of the
9 water infiltrate into the ground below this layer of
10 organic matter where it moves through the soil and stays
11 cold and clean?

12 A. It does, but it also has -- the mountains have a very
13 unique situation where they have boulder-covered areas and
14 sometimes the water runs through the boulders into a
15 stream.

16 Q. And it stays underground in those conditions?

17 A. Yes, most of the time.

18 Q. So is it fair to say that most of the times when a
19 mountain area is not developed there is a natural
20 equilibrium there with the soils, the slopes, the
21 vegetation?

22 A. Expect for forest harvesting practices, which can be
23 there, and there are natural events where you can get a
24 tremendous amount of rainfall runoff that can change
25 hydrologic patterns, but normally it stays about the same.

1 Q. If the soil was conserved by development and the organic
2 matter is removed, would you agree there would be more
3 stormwater runoff generally and the water becomes a
4 surficial feature?

5 A. Yes.

6 Q. In that situation, the water wouldn't be as cold and as
7 clean?

8 A. That's correct unless you used the right techniques to
9 reintroduce it into the ground properly.

10 Q. And development without those techniques, sometimes
11 wetlands and streams might dry up and sometimes wetlands
12 and streams can become overwhelmed with water that's
13 deposited from the drainage ways; is that right?

14 A. Yeah, that is the potential if not done properly.

15 Q. Do you recall the heavy rain event of July 12th in western
16 Maine when over 5 inches fell near Gilead?

17 A. I remember that event, yes.

18 Q. Did you go visit the area by any chance?

19 A. I didn't until a long time after, so I never went there
20 and saw any of the results.

21 Q. As a professional, what's your opinion about what could
22 happen to the proposed road system in the Kibby project if
23 during the construction phase a heavy rain event like that
24 occurred there?

25 A. If they took their proper techniques, then it would be

1 minimal effect; but if they didn't, there could be
2 disastrous effects.

3 Q. In your Comment 13 of the initial review comments, you
4 mentioned there are around 2.25 miles of potentially poor
5 to very poorly drained soils in the transmission line as
6 reported; is that correct?

7 A. Yes; and that's based upon information that was provided
8 to me in the application.

9 Q. I see. Does that include the wetland inclusions in the
10 mapped unit not listed as being hydric?

11 A. I based my estimate on the soils, not necessarily what was
12 mapped as wetlands. Wetlands poorly drained soils are
13 usually wetlands but not always.

14 Q. So just to clarify so I understand, the 2.25 miles of
15 soils identified as potentially poor and very poorly
16 drained, those 2.25 miles do not count inclusions in
17 mapped units that wouldn't be considered potentially poor
18 and very poorly drained?

19 A. No, the mapped unit contained poorly and very poorly
20 drained soil areas. And poorly and very poorly drained
21 soil areas can include uplands. It can go both ways.

22 Q. According to the response of Comment 10 of Jay Clement of
23 the Army Corps of Engineers, temporary maps of streams and
24 wetlands are included in his definition of fill, but
25 according to LURC and DEP regulations, they are not; is

1 that right?

2 A. I'm not sure of that one.

3 Q. All right. I won't pursue that.

4 Do you have any way to gauge at this time how much
5 fill there would be for the whole project?

6 A. Not until I had specific details. What we have now are
7 general ideas and concepts but not the specifics.

8 Q. So you would need more information about the actual
9 construction techniques; is that correct?

10 A. What would be used and where, yes.

11 Q. Is it your understanding that the transmission line will
12 be open to ATV use?

13 A. No, I'm not aware of whether it would be. It would be a
14 concern but I'm not aware of what the final decision is.

15 Q. And you don't have any information about the ATV use of
16 access roadways, do you?

17 A. No, I don't.

18 Q. But in your review comments you raise concern about ATV
19 use of the transmission line corridor over poorly and very
20 poorly drained soils, do you not?

21 A. Yes, I just raised the issue should that be allowed, then
22 the soils will need to have some sort of protective
23 measures.

24 Q. In your experience --

25 THE CHAIR: Pam, excuse me, would you just say those

1 letters again. I couldn't quite understand. Did you say ATV?

2 MS. PRODAN: Yes, I'm sorry. All terrain vehicles.

3 THE CHAIR: Oh, okay.

4 BY MS. PRODAN:

5 Q. How easily can ATV use be controlled in back country areas
6 like here along a 25-mile-plus transmission line that
7 doesn't go along a road?

8 A. I'm a soil scientist; I wouldn't know.

9 Q. Well, I'm curious whether you've seen -- since you did
10 raise a concern about ATV and TransCanada in its response
11 said it had inspection protocol, have you seen this
12 protocol?

13 A. No, I haven't seen it.

14 Q. What's your opinion on this idea about having inspections
15 and then going out and trying to fix a situation? Is
16 implementing measures after the fact, does that actually
17 protect soils?

18 A. As I raised in my comments, I would like to see some sort
19 of process in place should those be allowed to be open for
20 use by ATVs to provide some sort of protection, and I
21 suspect that's probably not an easy thing to do, but I
22 don't know because I don't deal with ATVs other than try
23 to fix what they do.

24 Q. In your opinion based on what you know how often it rains
25 and how often soil conditions might change in that part of

1 Maine, do you know how often it would be necessary to go
2 out and inspect areas along the transmission line to see
3 whether there was damage or not?

4 A. No, because it would depend on if they had general --
5 allowed to be used, if it was just for snowmobiles, and
6 then how much are those actually used that would make a
7 difference.

8 Q. Can you explain the meaning of the soil abbreviation
9 suffix C or D when you look at a soil map or listing of
10 soils and you see, for example, SaC or SaD. What does the
11 C or D mean?

12 A. The last letter is usually capitalized and refers to
13 slope.

14 Q. And for a unit or series identified with a C, is it
15 correct that it has a slope up to 30 percent?

16 A. That is a range. If you went by the NRCS soil mapping
17 procedures, that usually means 8 to 15 percent slope. But
18 each soil scientist can craft their map and their slope to
19 be whatever it is that they prefer it to be.

20 So in this case the C is 30 percent that they're
21 using.

22 Q. I see. So we would need to look at the information in
23 the --

24 A. Yes.

25 Q. -- application to see what the slope is?

1 A. Right.

2 Q. -- for each letter there?

3 A. Yes.

4 Q. Thank you.

5 A. Yep.

6 Q. However, would you agree that based on your review of the
7 application that there are numerous locations in the
8 project area where the slopes are 30 percent or greater?

9 A. I didn't do any analysis of the percentages, but I do know
10 that there are areas that do have very steep slopes, and
11 that was one of my issues.

12 Q. Was it an issue for you because it's impossible for
13 TransCanada to wholly avoid those slopes in the project
14 area?

15 A. Generally speaking, if you're going to reach the top of
16 the mountain, you're going to have to cross some steep
17 slopes.

18 Q. In your initial review comments you mention steep cuts.
19 Can you tell the extent of the steep cuts?

20 A. Steep cuts?

21 Q. I'm sorry. Deep cuts from these maps I'm going to show
22 you in Volume 3 of the direct testimony of TransCanada.
23 It's also in the application.

24 There are two maps, one is of Kibby Range and one is
25 of the Kibby string. Can you tell the extent of the deep

1 cuts from these maps?

2 A. There is a map here that does show where they are
3 proposing to make deeper cuts.

4 Q. So you can see the location of the cuts?

5 A. Hm-hmm (indicates yes).

6 Q. And you can see where the fills are also; is that correct?

7 A. That's correct.

8 Q. But you can't really tell the full extent of it, can you?

9 A. No; until it's actually specifically designed, those are
10 probably estimates.

11 Q. Is it your opinion that mountain soils have severe
12 limitations for more than just road building but erosion
13 hazards and equipment limitations?

14 A. Yes.

15 Q. In the road detail filed July 23rd in response to your
16 initial comments, do you recall that?

17 A. I don't remember seeing or getting responses to the
18 comments.

19 It doesn't mean I didn't. I don't remember it. I
20 get busy and -- I'm out in the field a lot.

21 MS. BROWNE: What are we looking at?

22 MS. PRODAN: We're looking at the response, I believe
23 it was filed July 23rd.

24 MS. BROWNE: What is it?

25 MS. PRODAN: It's the detail, the road detail. So

1 that would be under the initial responses and it would be
2 Attachment A, and it's called road traversing existing steep
3 slope with shallow groundwater.

4 MS. BROWNE: Thank you.

5 BY MS. PRODAN:

6 Q. Dave, do you recall that this was in response to your
7 initial comments?

8 A. As I said, I don't remember seeing the responses, so I --
9 this is the first time I've ever seen this specific
10 detail.

11 I'm not saying I didn't get them, I just don't
12 remember seeing them.

13 Q. I understand. But taking a look at this now, how would
14 something like this actually get built on a mountain?

15 A. Well, there's actually -- I took the people from
16 TransCanada and the Black Nubble/Redington engineers to a
17 site in Elliotsville Township where a road is being
18 built -- just built, in the final stages of being built --
19 using this technique, and it worked quite well. I went
20 back this summer and it was still working quite well.

21 Q. But in construction does the equipment have to be on some
22 steep slopes in order to construct it?

23 A. Either that or you would build part of it and you work
24 your way all along on the part that you built.

25 Q. How long is the length of road in Elliotsville Plantation

1 where that technique was used?

2 A. I'd guess maybe 500 feet.

3 Q. When was it built?

4 A. The winter before last.

5 Q. So it's 500 feet long and it's been in existence through
6 two winters?

7 A. A year and a half, two years.

8 Q. Regarding the rock mattress technique, am I saying that
9 right, rock mattress technique?

10 A. Yep, that's good.

11 Q. How extensively has this technique been used in Maine?

12 A. It's been used on a number of roads, probably a dozen,
13 that I am aware of.

14 Q. Isn't it true that the IF & W representative said that he
15 was not familiar with the rock mattress technique?

16 A. I don't know.

17 Q. Are the toolkit techniques -- am I saying that right --
18 toolkit -- are those techniques that you proposed included
19 in any standards that have been adopted by any agency in
20 Maine?

21 A. Most of them are. The only one that I'm thinking that may
22 not be used is the rock sandwich or other rock applied
23 layer or equal dispersion of the flow. That one I'm not
24 sure, although other states have that technique because
25 I've seen -- I've been given copies by people from other

1 agencies showing that.

2 Q. Do you have any idea what weight that rock sandwich can
3 take before the integrity is compromised by compression
4 or --?

5 A. No, but I don't see any reason why it would be
6 compromised.

7 Q. So how many years do you expect the rock sandwich to
8 perform as needed?

9 A. Hopefully indefinitely.

10 Q. Do you think additional research should be done before
11 adopting the technique on a large scale?

12 A. Personally, I would like to see it used more frequently
13 because I think that it has -- it reduces the impact on
14 resources, and if you wait several years before you used
15 it, then there may be some significant alteration of
16 resources that could have been prevented.

17 Q. With regard to the first technique that we discussed where
18 you said a road had -- 500 feet of road had been built
19 using that technique in Elliotsville Plantations, would
20 you like to see more of that being constructed also?

21 A. I would prefer to see less road built in those areas but
22 if you can't avoid, that's a very good technique to use.

23 Q. What's your understanding of how many road miles of seeps
24 are proposed to be stabilized using the rock sandwich
25 method?

1 A. You're talking about for this project?

2 Q. Yes. I'm sorry, for this project.

3 A. I haven't done that analysis. I would do that during the
4 actual development phase. This was a rezoning
5 application, so I was more concerned about the techniques
6 that would be used than to have the actual specifics and
7 assume they would come later.

8 Q. I believe you stated in some of your comments that in this
9 project pallets could be used or talus material could be
10 used where it's shallow bedrock.

11 What would this material be used for?

12 A. It would be making a type of a rock sandwich.

13 Q. And where would the material come from if it were talus?

14 A. If it was talus, that just means that it's near a
15 mountaintop. It's rock that has fallen off and rolling
16 down the side and it's just kind of sitting there. It
17 would be taken from that area.

18 Q. Are you anticipating these areas would be found very close
19 to where the road's proposed, or would some of it reach
20 part of the mountain, making it a steeper area where it
21 would roll down?

22 A. It could be most anywhere that would be convenient for the
23 contractor to obtain the material.

24 Q. But you didn't necessarily have any information that that
25 would actually be available on the site?

1 A. No, I didn't.

2 Q. Is it your understanding that the applicant would use the
3 techniques you recommend when and where they believe
4 they're necessary?

5 A. Yes.

6 Q. If the engineer on the project disagrees with you as to
7 which construction technique should be used in a
8 situation, how would that issue be resolved?

9 A. I try very hard to be practical so that if the engineer
10 had a very good reason why a different technique was
11 required in his or her opinion and I agreed, then I don't
12 have any problem with modifications.

13 Q. I'm not sure you know the answer to the next question, but
14 I guess I'll ask it.

15 If your techniques, like with the toolkit, are
16 adopted in some situation, who has the liability if it
17 doesn't work since you're a State employee?

18 Do you have any liability if you recommend something
19 and it doesn't work, or does the engineering company have
20 the liability?

21 A. Generally speaking -- I've been doing this for 20 years --
22 and it's always that I sit down with the engineers and we
23 come to an agreement such as if this rock sandwich
24 technique was to be used, they could install a few
25 culverts so that if the water was going to overwhelm the

1 rock sandwich, like if a person is building a dam, so you
2 can put in measures that can be used to take care of a
3 situation should it not work, and then after a while if we
4 find that they work and we don't need those cross
5 culverts, we don't use them. So there are ways to take
6 care of that concern.

7 Q. How much of your job is engineering solutions to problems
8 related to building on soils and slopes that are of
9 marginal suitability for development or roads?

10 A. That, I can't give you a percentage, but that's a common
11 type of duty that I have.

12 Q. And you have worked for engineering firms in Maine; isn't
13 that correct?

14 A. Yes.

15 Q. For ten years in fact, from '75 to '80 [sic]?

16 A. '75 to '85.

17 Q. Excuse me, '75 to '85; correct?

18 A. Right.

19 Q. But you're not qualified or licensed as an engineer
20 yourself; right?

21 A. No, I'm not.

22 Q. Have you ever had the impression that cost might become an
23 issue with the construction of this project?

24 A. That's not something that I generally concern myself with,
25 and particularly when there are significant or severe

1 limitations, I say these require significant techniques to
2 be used.

3 Q. For a project of this magnitude and where it is, how much
4 of your time do you think you would spend as a State
5 employee on -- do you have any idea?

6 A. No, I don't. I would make myself available to --
7 particularly in the beginning -- to make sure things were
8 being as proposed and the engineer and I agreed and make
9 sure things were working. Then I would just probably spot
10 check from then on.

11 Q. Is there any arrangement with developers to reimburse the
12 State of Maine for your time and expenses?

13 A. Not that I'm aware of.

14 MS. PRODAN: Thank you.

15 Good afternoon, Mr. Tannenbaum.

16 MR. TANNENBAUM: Good afternoon.

17 EXAMINATION OF MR. TANNENBAUM

18 BY MS. PRODAN:

19 Q. My first question to you is in regards to the Electric
20 Restructuring Act. Under Section 7, when the Public
21 Utilities Commission is mandated to inform consumers about
22 the benefits of electricity generated in this state from
23 renewables and the opportunity to buy it, doesn't it also
24 say the Commission may not promote any renewable resources
25 over others?

1 A. That's my memory, yes.

2 Q. So you're not here today to promote the Kibby wind project
3 over any other renewable resources; is that correct?

4 A. Yes, that's correct.

5 Q. Are you aware that the FERC recently ordered a new
6 transmission line to be built to get the power out of the
7 Maple Ridge wind power development in New York and the
8 Catskill region to downstate New York?

9 A. No, I'm not.

10 Q. Well, let me ask you, if transmission capacity in Maine is
11 insufficient to transmit the electricity from a wind power
12 project in Maine, can the federal government step in and
13 order a new transmission line to be built?

14 A. There's a process in the Energy Policy Act that involves
15 the DOE, the Department of Energy, for designating
16 corridors.

17 Once -- I think they're referred to as National
18 Interest Corridors -- and once they have done that, then
19 the FERC, Federal Energy Regulatory Commission, can
20 preempt State transmission siting for that.

21 Q. Are you aware of any of those corridors being located in
22 Maine?

23 A. No. At this point FERC does not have the authority to
24 preempt state authority.

25 Q. Next I want to ask you about Maine's portfolio requirement

1 that you mentioned on Page 7 in your comments.

2 The amendment to Maine's portfolio requirement that
3 you mentioned called, An Act to Stimulate Demand for
4 Renewable Energy, that's public law, Chapter 43 now;
5 correct?

6 A. I'll take that as correct.

7 Q. Would you agree that it actually has the potential to
8 dramatically increase the amount of funding for
9 community-demonstration project and research?

10 A. To the extent that suppliers choose to comply with the new
11 requirement by paying into a fund as opposed to purchasing
12 new renewable energy credits from a wind or other
13 renewable facility, it would have the effect of increasing
14 the voluntary renewable, RD-5.

15 Q. So in other words, is it correct to say that this law
16 requires the PUC to allow electricity providers the choice
17 of complying with them, new renewable resource
18 requirement, by paying into the renewable resource fund?

19 A. Well, this is essentially a cap on what suppliers will
20 have to pay in order to meet the requirements.

21 So if the market value of renewable energy credits
22 for renewable power is higher than that cap that the PUC
23 will set, then the economic response would be to pay into
24 the fund.

25 It's not really -- technically the supplier has a

1 choice.

2 Q. I'm sorry, I didn't hear you.

3 A. I said the supplier would have a choice, but the idea is
4 not -- the idea is to require suppliers to support
5 renewable projects by purchasing RECs.

6 The alternative compliance mechanism is really a
7 ratepayer protection mechanism that caps the rate impact
8 of the renewable portfolio.

9 Q. Would you agree that the law for the renewable resource
10 fund was also amended this year transferring the
11 administration of the renewable resource fund from the
12 State planning office to the PUC?

13 A. Yes, that's correct.

14 Q. Doesn't this new law also provide that the eligible
15 projects that may be funded out of this fund now include
16 projects by 501(c)(3) organizations, consumer-owned T and
17 D utilities, community-based nonprofits, community action
18 programs, and municipalities, quasi municipal
19 corporations, or school districts or school units?

20 A. I accept that that's what it says.

21 Q. If you want to -- I do actually have a copy of Chapter 18
22 here if you want to double-check that Paragraph D.

23 A. I have a copy.

24 Q. In other words, what I'm asking, were the groups that
25 could apply for these funds actually expanded on this list

1 for inception?

2 A. Well, I accept that that's the case. I'm not specifically
3 aware of that, but I don't doubt it and I accept it if
4 that's what the law says.

5 Q. Would you agree that Section D has new language in it?

6 A. Again, it's --

7 Q. You said you had a copy of it?

8 A. I'm sorry, I was looking at perhaps a different -- I
9 apologize, Pam, I was looking at the renewable law.

10 The question was is this a new change?

11 Q. The question is concerning the groups that are eligible to
12 apply to have a community-demonstration project, has that
13 group been expanded?

14 A. Yes, it has.

15 MS. BROWNE: I'd like to object. I'm having a hard
16 time following the relevance of community projects.

17 THE CHAIR: I guess I am, too. If Pam wants to
18 enlighten us, I'd be happy to hear it.

19 MS. BROWNE: I'm also -- I know we're getting toward
20 the end of the day and I don't want to lose my opportunity.

21 THE CHAIR: We're going to finish. Don't worry,
22 everybody will have a chance to speak even if we don't eat
23 supper.

24 I guess, Pam, you can help us a little bit. I have
25 to say, I'm a little lost by what you're trying to -- what the

1 point is you're trying to make. If you want us to be kind of
2 sympathetic to you, you have to make sure it's clear.

3 MS. PRODAN: Well, I think I'll just move on to the
4 next topic.

5 THE CHAIR: Okay, that's good.

6 BY MS. PRODAN:

7 Q. Slightly different topic. For the renewable portfolio
8 requirement established in 2000, would you agree that the
9 TransCanada Kibby project would not qualify for that?

10 A. Because it was greater than 100 megawatts, that is
11 correct.

12 Q. But under the new law you referred to in your comments to
13 the Commission it would create a separate additional
14 portfolio requirement for new renewable energy for which
15 that restriction on capacity size doesn't apply; correct?

16 A. Doesn't apply to wind projects -- to wind projects it
17 continues to apply to other renewable generation
18 facilities.

19 Q. So the Kibby project would qualify for this; correct?

20 A. Yes, it would.

21 Q. My last question is just to get your perspective on the
22 swimming pool analogy for the grid, which it's been
23 referred to for many years, actually, and sometimes it's
24 called the balloon analogy.

25 I was wondering if you or the Commission has a

1 position on whether this actually reflects the complexity
2 of the grid. You can give your own personal opinion on
3 this if you would like.

4 A. I'm not very good with analogies and I'm probably not
5 qualified to testify on analogies; but I think the point
6 is that with an electric system, at every given moment
7 there's a demand for electricity, and in every given
8 moment there has to be supply to meet that demand.
9 Electricity is a supply that's generated as it's used.

10 Electricity generally isn't stored, it's consumed as
11 it's generated. So to the extent the load is giving in a
12 particular moment in a particular hour and something
13 generates, something else won't generate, and that was a
14 little bit of what I heard when I walked in, that if the
15 wind is blowing and a wind facility is generating,
16 something else is going to back down because the amount of
17 generation and the amount of load at any given moment in
18 time has to match.

19 I'm not sure if that was the balloon analogy but I
20 thought it was, or the pool.

21 Q. Isn't it true that with congestion and limitations in the
22 grid, it's not always possible for electrons to easily
23 flow from where there's supply to where there's demand; is
24 that right?

25 A. There are times where there's transmission congestion

1 which would result in economic facility or what would
2 operate.

3 Remember, the cheapest facilities operate first. As
4 demand grows, the more expensive ones run. There are
5 times because of congestion that a cheaper facility can't
6 run because there's not enough room on the grid.
7 Something else will run.

8 MS. PRODAN: Thank you.

9 A. That type of congestion, by the way, usually results in
10 the lower prices. Congestion, Chairman Adams always likes
11 to point out, cuts both ways.

12 THE CHAIR: Thank you. Thank you, Pam. TransCanada,
13 are you --? I'd like to have the Commission have time to pose
14 some questions before 5 o'clock, too, so I hope Juliet doesn't
15 use this all up.

16 MS. BROWNE: I won't.

17 THE CHAIR: I would, somewhere between 10 and 15
18 minutes ought to satisfy you, I hope.

19 MS. BROWNE: I'll do my level best.

20 THE CHAIR: Then that gives us another 10 or 15
21 minutes.

22 MS. BROWNE: Thank you. I'm going to begin with you,
23 Dave. Again, I appreciate your coming in on your day off.
24 Some might say you really know how to vacation.

25 MR. ROCQUE: Thanks.

EXAMINATION OF DAVE ROCQUE

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BY MS. BROWNE:

Q. I think that you talked about the risks associated with road construction in these areas, which I certainly appreciate, and just one important point for context that I would like to ask you about is that in any construction project, you would agree that there are risks associated with construction and the most important -- or certainly one of the most important factors -- is to make sure that techniques to address hydrology and erosion are actually properly implemented during the construction process?

A. That's correct.

Q. You also talked about the suitability of soils. Just so we're clear, there's a difference between talking about soils that might be suitable for use in construction of the roads, and as I understand your testimony and as I understand the conditions that the Kibby site, there are soils that would not be suitable for use in construction of the roads; correct?

A. Yes, based upon the documents with the potential ratings for development, that's what I'm basing it upon.

Because as I've said before, engineering techniques are available today to overcome most limitations, it's just to what degree of limitation is it. The way you make the cutoff between what you call suitable and not

1 suitable.

2 Q. And there are techniques as we've talked about for
3 addressing measures to ensure that during a construction
4 process, whether you're using the soils present for the
5 roads or you're bringing in other materials to build the
6 roads, that you maintain the hydrology and you prevent
7 soil erosion and runoff; correct?

8 A. Yes, there are techniques that should be employed to
9 prevent any undue adverse impact during construction.

10 Q. Some of the specific techniques developed here have been
11 the rock sandwich and other --

12 A. That's a different -- there's temporary measures to
13 prevent a problem from happening while you're building it,
14 but then there are permanent measures for the long term,
15 and the rock sandwich is the long-term thing.

16 There are other measures that are temporary so that
17 when you're in the process of building it, before it's
18 done --

19 Q. And those are measures that TransCanada has discussed with
20 you in several meetings during the application development
21 process; correct?

22 A. That's correct.

23 Q. And there are also measures for addressing stormwater
24 runoff after construction; correct?

25 A. That's what we spent a lot of time talking about.

1 Q. Okay. I guess I just want to be clear. There's a
2 question on the transmission line. There are no roads
3 being proposed associated with construction of the
4 transmission line; correct?

5 A. As far as I know, that's true.

6 Q. I just wanted to be clear on that.

7 A. Even though there aren't any, ATVs they still use them and
8 they can be damaging and so that was the issue.

9 Q. I appreciate that. I think that in your August 31st memo
10 to Al Frick you state that all of the western Maine
11 mountains share similar unique soils and hydrologic
12 conditions to varying degrees?

13 A. That's correct.

14 Q. It's true, isn't it, that there are a number of roads that
15 have been built above 2700 feet in connection with logging
16 operations; correct?

17 A. Not many that I'm aware of. Skid trails but I'm not aware
18 of many logging roads, per se, above 2700 feet.

19 Q. So if there were roads used for purposes of logging above
20 2700 feet, those aren't roads that you've reviewed;
21 correct?

22 A. In later years I have made reviews for LURC for those
23 types of conditions, but it's pretty rare to my knowledge
24 that they build roads that high.

25 There are a few and I have been out -- in fact, it

1 was a couple of times -- and seen some high elevations
2 with roads, so I have seen a few up in that height.

3 Q. I think it would be fair to say that the roads associated
4 with this project and a certain other project have
5 received greater scrutiny and oversight than probably any
6 other road that has been built or proposed in the State of
7 Maine?

8 A. At least to my knowledge and experience, yes.

9 Q. It's true, whether it's in the western mountains or
10 elsewhere, that there are many roads that have been built
11 in high elevation areas with challenging soils and other
12 on-site conditions; correct?

13 A. I'm assuming that's true, and particularly in other
14 states.

15 Q. For example, there's a road that goes to the top of
16 Mount Washington?

17 A. Yes, and there's one going up to the top of this mountain
18 to a wind tower that washes out every year. I've been on
19 it.

20 Q. In your discussions with TransCanada, there was a
21 suggestion about measures could be costly.

22 Has TransCanada ever suggested that they were
23 unwilling to utilize a particular construction,
24 engineering technique because of cost?

25 A. No.

1 Q. And in your meetings and discussions with TransCanada over
2 the course of the development of this application, isn't
3 it true that TransCanada has agreed to implement the types
4 of measures that had been discussed to minimize impacts,
5 interference with hydrology, stormwater runoff, and other
6 issues associated with construction of these roads?

7 A. That's correct.

8 Q. Isn't it true that TransCanada has experience with
9 utilizing these same techniques in other locations?

10 A. That's what I have been told.

11 Q. And I just want to turn for a minute to your comments in
12 this proceeding and on Page -- I don't know if you happen
13 to have those handy or not --

14 A. Yes, I do.

15 Q. -- on Page 2 of your comments, you state that it is your
16 professional opinion -- could you just read that first
17 item? You said it's your professional opinion that the
18 applicant has. If you could read that first statement.

19 A. Demonstrated an understanding of the soils, slope, and
20 hydrology limitations that will be encountered while
21 undertaking the proposed construction project located on
22 mountainsides and tops and indicated a willingness to
23 incorporate any and all appropriate best management
24 practices recommended by experts in the field to overcome
25 soil, slope, and hydrology limitations and thereby

1 minimizing environmental impacts. This included having an
2 on-site expert on erosion control and hydrology,
3 stormwater to assure appropriate measures are used where
4 and when needed during construction. It also was provided
5 in discussion of type of techniques which would be used,
6 where it would be used, and when.

7 Q. Thank you. Is that still your professional opinion today?

8 A. That's correct.

9 MS. BROWNE: Thank you. I have just I think -- I
10 almost hate to get into the questions with Mitch, so I'm
11 thinking.

12 EXAMINATION OF MITCH TANNENBAUM

13 BY MS. BROWNE:

14 Q. The PUC has submitted comments in this proceeding
15 directly; correct?

16 A. Yes.

17 Q. Then you also provided comments to the Commission as part
18 of your August 1st presentation to the Commission, not
19 your personal, I understand it was Chairman Adams, you had
20 a hand in it?

21 A. Yes.

22 Q. Those comments specifically address wind power; correct?

23 A. Yes, they do.

24 Q. Just so we're all on the same page on this issue, I
25 understand it is the PUC's belief that there is a need for

1 wind power in Maine; correct?

2 A. That's correct.

3 Q. And that there will be real energy benefits resulting from
4 wind power in Maine?

5 A. Yes, there will be.

6 Q. That wind power is consistent with a number of State
7 policies?

8 A. That's correct.

9 Q. Congestion, if it exists, will be resolved through the
10 marketplace?

11 A. It should.

12 Q. And the generator, it's your belief that the generators
13 have an economic incentive to solve any congestion?

14 A. Yes, they do.

15 Q. And then as you noted, to the extent there is some
16 congestion, that should result in a benefit to Maine
17 ratepayers?

18 A. Yes, it will in most cases.

19 Q. Thank you.

20 MS. BROWNE: IF & W, probably, Tom, these are for
21 you, but obviously if I'm asking the wrong person,
22 somebody else should feel free to jump in and interrupt.

23 EXAMINATION OF TOM HODGMAN

24 BY MS. BROWNE:

25 Q. I think you've suffered through all two days of these

1 hearings, at least I think you were all here today when
2 there was a discussion about the avian and bat surveys
3 that TransCanada conducted as part of this project.

4 Were you here for that, Tom?

5 A. I was here today; I wasn't here yesterday.

6 Q. Great, the discussion was today. There were some
7 questions from some of the commissioners about potential
8 concerns over the quality and sufficiency of some of the
9 pre-construction surveys that were done, so I just want to
10 go through a few items with you if I could.

11 A. Sure.

12 Q. The protocols that were used by TransCanada in connection
13 with this study, they were shared with IF & W prior to
14 implementation; correct?

15 A. Yes, they were.

16 Q. And TransCanada has incorporated any of the
17 recommendations requests, suggestions by I F & W; correct?

18 A. Yes, they certainly did. In fact, some of the details
19 were more than we asked for.

20 Q. And that's true with both the avian and the bat studies?

21 A. I can't really comment on the bat studies. My assumption
22 is yes. I was privy to those discussions but I don't pay
23 the same level of details -- attention to those as I do
24 the bird.

25 Q. So the bird studies would include, for example, the spring

1 foraging studies, daytime foraging studies?

2 A. Spring foraging studies, the nocturnal radar work, any
3 corrections based on NEXRAD radar, and the hawk, the hawk
4 work. I, of course, was present during discussions of
5 many of the small mammal work and bat work.

6 Q. There was some discussion about concerns over a sighting
7 of a golden-winged warbler that was identified in the
8 field and reflected in some of the survey results. I
9 guess I have a couple of questions.

10 What's your understanding of what TRC, or the folks
11 from the field, did when they sighted that bird?

12 A. I don't have a great deal of recollection of -- much has
13 been made of that observation today. I didn't get really
14 too excited about it when I heard about it.

15 I did notice it in the data and I did hear a little
16 bit of discussion about it. I can't remember the source
17 of it, whether it was through Dana or just through general
18 birding on-line discussions, which are quite common in the
19 birding community.

20 I didn't make a whole lot of it.

21 Q. I guess, are you aware of other sightings in Maine of that
22 species?

23 A. I believe it 2001 there was a male that set up territory,
24 I believe, in the town the Dexter, spent most of the
25 summer there. It was pretty irrefutable.

1 I didn't go to see it. Many people did. It was
2 singing on its territory all summer. I believe it was
3 2001. I don't believe it was paired.

4 There have been, in the town of Eliot, right on the
5 New Hampshire border, there may occasionally be a
6 golden-winged warbler; of course, I don't know where they
7 are but I know where people have reported them or
8 indicated that there may have been.

9 In the extreme southern tip of Maine would be the --
10 would be sort of the northern extent of their range,
11 although I would not call a golden-winged warbler a
12 regular breeding bird in the state of Maine.

13 Q. But based on your knowledge of its potential presence,
14 certainly as migrating through the region, and based on
15 your knowledge of the field personnel that were involved
16 in these surveys, did you have any concern that this
17 sighting somehow reflected fieldwork that was -- a mistake
18 by the folks in the field?

19 A. I have no knowledge of the skills of the individuals that
20 did the fieldwork. In fact, today I asked for the name of
21 the individual and I don't recognize the name. I have no
22 knowledge of that.

23 With regard to the possibility of a golden-winged
24 warbler showing up in Maine during migration, birds are
25 highly mobile. Birds probably return from Central or

1 South America. The fact that it didn't stop in
2 Connecticut and it overshoot by 100 miles or so, in the
3 bird world it's no big deal, it happens all the time.

4 But it takes a tremendous amount of skill to pick
5 that up. Of course, the counterargument would be that
6 somebody -- an overzealous individual -- could record that
7 as a golden-winged warbler when it was indeed another
8 species.

9 I guess I prefer to assume that it was the former
10 rather than the latter. Birds -- odd species show up in
11 odd places, and that's -- there's whole lists of weird
12 bird observations in different places. In fact, you heard
13 today that there are so many records of golden-winged
14 warblers in Maine because people do keep track of those
15 observations.

16 Q. Then there was also some discussion about the Connecticut
17 warbler. Did the sighting of the Connecticut warbler
18 raise any red flags in your mind about the quality of the
19 fieldwork that was being undertaken?

20 A. I would just echo my comments about the golden-winged
21 warbler with regard to the Connecticut warbler.

22 Q. And IF & W has actually been credited in the field during
23 some of these survey efforts, it's my understanding; is
24 that correct?

25 A. I know that my colleague, Bob Cordis, has been in the

1 field to a certain degree, with me and without me, did
2 that on some of the studies.

3 I also was present -- I hiked Kibby Range in the
4 middle of the night to look at the nocturnal monitoring
5 studies to see the radar studies in process as they were
6 collecting the radar data.

7 So I've been on the site a couple of different times
8 for different aspects.

9 Q. And based on the consultation that's occurred, the work
10 that's occurred, your understanding of how these surveys
11 have been implemented, the results that you've seen, do
12 you have concerns with the quality of work that's been
13 done by TransCanada and its consultants with respect to
14 the pre-construction bird surveys?

15 A. I really don't. The communication -- the overall
16 communication that we've had with TRC has been excellent,
17 and with regard to study design, things like that, they
18 are very accommodating.

19 In terms of the amount of data and the multiple small
20 studies that we asked for, have really -- I mean, I've
21 gotten to the point where I'm beginning to use the level
22 of detail that they provided us as a standard for which to
23 ask other projects to adhere to.

24 I think we had a really good working relationship in
25 designing and carrying out those studies and I believe our

1 comments sort of stated that and summarized that.

2 MS. BROWNE: Thank you very much. I have no further
3 questions, Chairman Harvey.

4 THE CHAIR: Thank you.

5 MS. PRODAN: There was some new information by Jody
6 Jones and Mr. Hodgman, so I just wanted to remind you that we
7 did reserve time for rebuttal.

8 THE CHAIR: I've been painfully aware of that as we
9 go along this afternoon. We'll make arrangements for you both
10 to have a few closing comments after the Commission has a
11 chance to ask this panel any questions, if indeed they have
12 any.

13 MS. HILTON: This is for Dave, and I think I've asked
14 you this before.

15 EXAMINATION OF DAVE ROCQUE

16 BY MS. HILTON:

17 Q. It has to do with having some sort of a third-party civil
18 engineer on-site during the construction of this project
19 and as a condition of the permit.

20 Is that something that you recommended or --

21 A. Yes.

22 Q. -- would support doing?

23 A. Yes, because if you don't have good data to know where
24 every one of the conditions exists in every bit of the
25 roadway, then you may encounter these situations in places

1 you didn't anticipate which will be the case. It's very,
2 very high because of the uniqueness.

3 So having somebody on site that has the knowledge and
4 ability to say, that's what that situation is, this is
5 what needs to happen, construction to me is important.

6 Q. Is that something that has been required of any other
7 projects that you've been involved in in Maine?

8 A. No, because we haven't really -- I haven't been involved
9 with projects with the kind of limitations this has other
10 than that road in Elliotsville Township in which case I
11 did go out to inspect it when it was first being
12 constructed to make sure everything was being done the way
13 it should have been done. That was a smaller piece.

14 Q. Just one other thing, you mentioned ATVs being a concern,
15 and I assume that's particularly of concern on very steep
16 slopes?

17 A. The concern wasn't so much on the mountain roads; it was
18 the transmission lines, because the transmission lines
19 won't have roads but they will be open corridors, and so
20 there are places where I would expect snowmobilers to use
21 them. If ATV users use them and they aren't roads and
22 they's soft soils, they can really do some running and
23 mucking up.

24 Q. So you don't have too much concern about them; it's on the
25 mountain use themselves?

1 A. The roads themselves --

2 Q. Even with the steep slopes?

3 A. Because there will be a road that's suitable for any kind
4 of traffic. They won't be mucking. If they spin their
5 tires, I suppose they can do some harm.

6 Q. On the steep slopes, though, if you've got --

7 A. They won't be because the roads will be built on steep
8 slopes, but the roads can only be a maximum of like 10 or
9 12 percent for the trucks to get --

10 Q. Okay --

11 A. -- so they'll be going like this and around. That's why
12 they'll be going along steep -- the road itself won't be
13 steep. That's one of the problems.

14 MS. HILTON: Okay, thank you.

15 MR. LAVERTY: Most of my questions were answered
16 through cross-examination and also your submittals.

17 I have a just a general comment. Sister agencies, we
18 rely on you people, we really rely on you people. I really
19 want to thank you for your diligence and the quality of your
20 work. I think we're very fortunate to have you.

21 I do have a question of Mr. Hodgman, Tom, and one
22 question for Mr. Tannenbaum.

23 EXAMINATION OF TOM HODGMAN

24 BY MR. LAVERTY:

25 Q. Maine Audubon has suggested that as part of mitigation for

1 potential bird mortality, that decommissioning is an
2 important consideration, and I guess this is one of the
3 first times I've heard this, and the point being that
4 should the project no longer be operated, that the
5 structure be removed in order to limit the continued
6 possibility of bird mortality.

7 Does the department have any position on that?

8 A. I'm probably not the best person to ask that question of,
9 but I -- perhaps Steve is. If the -- and I'll just ask a
10 question -- if the project is no longer operable, yet the
11 towers remained in place, wouldn't they still have to be
12 lit so then the whole issue of lighting and bird collision
13 is there.

14 I'm very much aware and in tune with Maine Audubon's
15 concern about decommissioning. Of course, we haven't had
16 the opportunity to have too many of these discussions yet,
17 and this is again an example of communication where we
18 haven't really had discussions yet, although we have had
19 an entry to those discussions, that decommissioning is a
20 priority. If approved or even prior to approval, that
21 would be discussed.

22 Q. Are there others that would like to comment on that?

23 MR. TIMPANO: I guess I would ask that you repeat the
24 question. I was writing and not paying enough attention.

25 EXAMINATION OF STEVE TIMPANO

1 BY MR. LAVERTY:

2 Q. Maine Audubon has testified that they consider
3 decommissioning, the removal, should the project no longer
4 be operative, that the structures be removed and that they
5 be removed -- we have some other general concerns about
6 decommissioning -- but specifically as an opportunity to
7 mitigate for potential bird mortality.

8 This is one of the first times I personally have
9 heard decommissioning related to bird mortality, and I was
10 wondering if the department shares that same concern as
11 Maine Audubon?

12 A. I would respond, yes, we do, and as you were receiving the
13 response from Tom, I was rechecking our prefiled comments,
14 and we had recommended that on a previous project and I
15 neglected to make sure that it was in these comments.

16 That is -- that is also a concern of ours that
17 decommissioning should be a part of any permit that might
18 be issued to assure that they were removed.

19 MR. LAVERTY: Thank you.

20 Mr. Tannenbaum.

21 EXAMINATION OF MITCH TANNENBAUM

22 BY MR. LAVERTY:

23 Q. Earlier, both through the testimony of Mr. Wilby and
24 Mr. Mahoney and also interchange between the members of
25 the Commission and the two senators, the dialogue, were

1 of birds, you work in taxonomic lists of birds. So all
2 the Vireos would have been right together.

3 So if I had seen blue-headed and red-eyed, I would
4 have picked it up immediately. Sorted alphabetically I've
5 got to go to "R," Red-eyed Vireo. I missed it.

6 The first thing that came to mind is testimony you
7 heard today, an identification mistake. It's probably the
8 most common, you heard today, it's probably the most
9 common or one of the most common birds -- probably the
10 more common forest bird -- in North America.

11 How could that have been missed and I've been
12 wracking my brain, since I heard Dr. Wilson's testimony
13 this morning, trying to sort of wrap my head around it.

14 The only alternative explanation other than
15 misidentification other than it clearly not being there is
16 with regard to timing of migration that Red-eyed Vireos
17 migrate a little bit later than do blue-headed Vireos, and
18 if that window of sampling didn't entirely overlap a
19 period when they were here, then you would have less
20 opportunity to pick them up.

21 But he should have gotten some, and actually
22 Dr. Wilson is probably the most knowledgeable person on
23 bird migration timing in the state of Maine, so I'm not
24 the person to be discussing that, certainly not in his
25 presence.

1 It's almost embarrassing. I submitted information to
2 him for some of his studies.

3 The other -- to me what was important about this
4 discussion of Red-eyed Vireo is not whether it was there
5 or it wasn't there, but was the context in which that
6 study was done.

7 What we tried to do with those -- what I always
8 called the morning stopover count, which is how it started
9 off back with the Redington/Black Nubble project many
10 years ago, was to put some species on those blips on the
11 screen.

12 We did radar work and we got information on targets,
13 so we got the target information. That's bats and that's
14 bird, but we don't know. If it's one species versus
15 another, maybe certain levels of mortalities are more
16 allowable than others.

17 So we wanted to know what the species were, and what
18 we asked Endless Energy at the time was to do two things,
19 was to do some morning counts, like you've heard here, and
20 we also asked them to do some acoustic monitoring where
21 you actually record the little call notes given by the
22 birds.

23 But acoustic monitoring, we never asked anybody else
24 to do it thereafter. It amounted to very little usable
25 information, and over time even the morning counts has

1 become questionable whether it gives us anything we don't
2 already know.

3 What it does tell is roughly when the warblers are
4 moving, roughly when the sparrows are moving, roughly when
5 fly catchers are moving, that sort of thing. That's about
6 the only useful information we got.

7 It's not great. It would probably have to be done at
8 a magnitude of ten times greater sampling than we're doing
9 now to really say anything and then I'm not sure if it
10 really tells us anything.

11 We were hoping that it would be a way that if there
12 were a mortality event -- not so much a mortality event --
13 but we might be able to assess risk in terms of species
14 instead of just targets. That's really all we can say
15 with the radar data.

16 So there's been a great deal of discussion over
17 what's not on the list, what not on the list when really
18 the list was just trying to come up with a way to qualify
19 -- to qualify the number of targets, put some species'
20 names on there.

21 As is typically the case with TRC, they've taken that
22 one step further than was necessary and put diversity
23 data. Diversity has really embellished the data, which
24 sort of led to this being a stand-alone study when it may
25 not have had quite that much information behind it.

1 I wanted to put that Red-eyed Vireo information in
2 context of what was the purpose of doing those counts in
3 the first place.

4 There is an interest in knowing what bird species
5 were there, but really it was to qualify the radar, the
6 nocturnal radar work.

7 MR. WIGHT: Thank you very much.

8 MS. KURTZ: This is a question for Dave Rocque.

9 EXAMINATION OF DAVE ROCQUE

10 BY MS. KURTZ:

11 Q. Yesterday we talked a little bit about the calendar, I
12 guess, or the time frame of the road construction.
13 Mr. Goulet had indicated that the road construction would
14 be from April to November, I think.

15 We talked about your concerns about soils and
16 saturated soils and what Mr. Goulet said was if the time
17 was -- if they didn't start in April and go through as
18 possible, but they would change the schedule to
19 accommodate that so the road construction would start and
20 perhaps stop and actually put off by a calendar year.

21 My question is, if for some reason the applicant
22 finds itself in a position that it really wants to build
23 roads when it's frozen or saturated, will any of the
24 techniques that you describe, no matter how well
25 implemented, will any of those prevent catastrophic

1 problems described as being possible?

2 A. This was discussed with the other application when it was
3 for both mountaintops, that they would propose to do the
4 work in the winter, and we got to the point where they had
5 to even use more extreme measures but they were willing to
6 go to that extent to do that work.

7 So theoretically it's possible but the magnitude of
8 costs and expense goes up, and then there's not just the
9 issue of the impact of the mountain but structural
10 integrity of the roads, safety of the people, because if
11 you use frozen material when thaws and moves and shrinks,
12 then there's a whole issue there.

13 So it becomes several degrees more difficult but in
14 the world of engineering nothing is technically
15 impossible.

16 Q. Could the risk of something going wrong be --

17 A. Yes, they would be. Yes, definitely, and it's not just if
18 you built it in the summertime and didn't do it right, you
19 might have some washouts, but if you did these things at
20 the wrong time of the year, the winter, not properly,
21 there could be actually some accidents happening to the
22 trucks and other things because the road just won't be
23 stable to secure. It's a whole other magnitude of issue.

24 MS. KURTZ: Thank you.

25 EXAMINATION OF MITCH TANNENBAUM

1 BY MR. HARVEY:

2 Q. Mitch, you just -- what other renewable power sources are
3 we dealing with here? Is wind the only one that really we
4 have in the pipeline?

5 A. Wind is really at this point in time based on the
6 economics of renewable technology. It's where the vast
7 majority of new renewable resources are going to come
8 from, at least in the near term.

9 Certainly biomass facilities could be built.
10 Landfill gas, there as been a lot of land fill gas
11 facilities constructed in response to the portfolio
12 requirements in other states. Of course, there's a limit
13 on that resource.

14 So there could be others. People are looking at
15 tidal that may become economic down the road. It's not
16 now, but certainly solar is not near being economic right
17 now.

18 So, yes, for the most part wind is likely the
19 renewable -- type of renewable facility that will be out
20 there to meet not only Maine's portfolio requirement but
21 those of other New England states.

22 THE CHAIR: Thank you.

23 EXAMINATION OF DAVE ROCQUE

24 BY MR. HARVEY:

25 Q. Dave, were you consulted on the Mars Hill project?

1 A. No, that was a Department of Environmental Protection
2 project. I've been there twice and looked it over, and I
3 can tell you that the soils and hydrology there are
4 completely absolutely different.

5 Q. So it's not constructive in terms of what we're faced
6 with?

7 A. No, you can't look at that and say, see, there it is.
8 Those soils are well drained. There's really no seeps.
9 It's a whole different ball game.

10 THE CHAIR: Thank you. I don't think we have any
11 further questions of the panel and we thank you all for coming
12 today, particularly Dave, who came in on vacation. The others
13 have been here for two days, I believe, Fish and Game, so we
14 appreciate that, and, Mitch, we obviously appreciate your being
15 here responding to the questions of the parties.

16 MR. ROCQUE: Is there cross-examination?

17 THE CHAIR: I don't think there's any that I'm aware
18 of. Pam cross-examined you already I thought.

19 I don't think he realized that being a soil scientist
20 would bring him so much attention.

21 Again, we thank you all for being here and your
22 comments. So I guess you're free to go.

23 The last -- the only thing left on the agenda is the
24 request by at least two of the parties for some closing
25 comments. Now, I can do this one of two ways. It's 5 o'clock

1 and you know we have to be here at 6. So supper, sometime
2 we've got to take a little break here for the court reporters,
3 but we will allow you to do this. You can do it in the next 15
4 minutes between the two of you, or we can give you a little
5 time at 6 o'clock to make whatever comments you think you need
6 to make.

7 MS. BROWNE: I don't think either of us have asked
8 for closing comments.

9 THE CHAIR: Oh, okay. I thought that's what we were
10 talking about this morning.

11 MS. PRODAN: No, we were reserving time for -- what
12 did we call it, rebuttal?

13 MS. BROWNE: Redirect.

14 MS. PRODAN: To bring Mr. -- Professor Wilson up here
15 to respond to some new information that just occurred this
16 afternoon. We had reserved time for that.

17 THE CHAIR: Is that what you're asking me to do is
18 bring him back up here?

19 MS. PRODAN: Just for one question by me.

20 MS. BROWNE: I guess I would just like to ask, I
21 mean, we're not -- we don't have any rebuttal, so I don't --
22 her rebuttal, I guess I didn't hear any new information, so I
23 guess I would like to hear what the new information is because
24 any rebuttal should be limited to new information that came up
25 after she put on her case.

1 THE CHAIR: Right.

2 MS. PRODAN: We agree with that. We were not asking
3 for a closing statement.

4 THE CHAIR: Okay, that's great.

5 Do you want to tell us about what you want Professor
6 Wilson to deal with?

7 MS. PRODAN: I would ask if Professor Wilson has any
8 comments in response to testimony of Jody Jones in response to
9 commissioners and Mr. Hodgman in response to commissioners
10 concerning these unusual sightings of the warblers and the
11 Vireo.

12 THE CHAIR: If you can do it real quick, I'll let him
13 do it.

14 DR. WILSON: My only point was that the Connecticut
15 warbler and the golden-winged warbler were sighted, we're told
16 that the biologist contacted DIF & W and also local birders,
17 and Jody Jones indicated that Maine Audubon had been contacted,
18 and she made a comment about the Maine Bird Hotline, which is a
19 valuable resource that gives a recorded telephone message,
20 which is done weekly, and it gives notable sightings of birds
21 found in the state.

22 Over the past 10 or 12 years it's also been
23 transcribed and sent as an e-mail list, and I keep those e-mail
24 lists.

25 The reason I was -- that I'm talking to you now is

1 that Jody had indicated that Maine Audubon had been notified
2 and that the birds had been reported on their lists, and in
3 fact I keep those lists because I'm a subscriber, and I just
4 wanted to point out that none of the people that were informed
5 of these two birds saw fit to report it to Maine Audubon
6 because it did not appear on any of the recordings in mid May
7 until the middle of June 2006.

8 So I can't tell you whether the lack of reporting was
9 due to lethargy, skepticism, busyness or whatever, but I
10 certainly wanted to point out that I did not discover the
11 existence of these two sightings until I got the materials this
12 summer and it was not distributed widely.

13 Again, I can't really say why the people that were
14 notified didn't want to notify the rest of the birding world in
15 Maine but they did not.

16 THE CHAIR: Thank you. I think with that we're going
17 to take a break.

18 Oh, I'm sorry, the date -- just a reminder, since
19 this is the conclusion of the parties' testimony, based on what
20 we said at the beginning of the hearing, if you wish to make
21 findings of fact and conclusions of law -- I think I said that
22 right -- proposed, okay -- that those need to be into LURC's
23 hand by November 21st. That's 30 days from the conclusion of
24 the record closing from the final time.

25 Is there anything else I'm supposed to tell them?

1 We'll be back here at 6 o'clock for the final public
2 session in this hearing. Thank you.

3 (There was a dinner break in the hearing at 5:03 p.m.
4 and the hearing resumed at 6:07 p.m.)

5 THE CHAIR: Good evening everyone. My name is Bart
6 Harvey and I'm chairman of the Land Use Regulation Commission.

7 This is a continuation of hearing on Zoning Petition
8 ZP 709 concerning TransCanada wind power development proposal
9 for a wind farm on Kibby and Skinner Townships, and in a few
10 minutes the applicant is going to give you a brief overview of
11 the project.

12 I see a few familiar faces from last night and also
13 some new folks here. Other members of the Commission present
14 this evening, Gwen Hilton, Steve Schaefer, Steve Wight;
15 Commission staff, Catherine Carroll, Diana McKenzie, Scott
16 Rollins, and Melissa Malacuso, who is somewhere here collecting
17 sign-in sheets.

18 I remind you if you wish to give testimony tonight,
19 you need to sign up. I have a couple sheets in front of me but
20 there's another one up back that you can put your name on. I'm
21 going to call you in the order in which you signed up.

22 The first -- and the other thing is for those of you
23 who are going to testify, we'll have to swear you in. I'm
24 going to do that after the applicant has made their
25 presentation on the project, and we'll go right to the

1 testimony from you all.

2 Are you ready?

3 MS. CINNAMON: Hi there. My name is Christine
4 Cinnamon and I'm the environmental manager for TransCanada for
5 the Kibby wind power project. Welcome to the public session
6 for the LURC hearing for the project.

7 I'd like to just introduce the project elements. The
8 project consists of 44 proposed turbines on Kibby Mountain and
9 Kibby Range. I'll show you exactly where that is in a moment.

10 There will be a total of 132 megawatts of installed
11 capacity. The turbines proposed are Vestas V90s, 3-megawatt
12 turbines. The rotor diameter is approximately 295 feet. The
13 tower height to the center of the hub is approximately 263
14 feet, and the total from the top to the bottom of the tower
15 would be approximately 410 feet.

16 Proposed is approximately 17.4 miles of new roads.
17 We would be able to utilize about 19 miles of existing roads.
18 There will be an electrical interconnection system between the
19 turbines. There will also be a substation, as well as a
20 service building.

21 During construction we'll need some laydown areas as
22 well as some concrete batch pads. Finally, the project
23 involves a 27.6-mile transmission line.

24 This shows you the project location in relation to
25 the state as well as in proximity to major roads.

1 That's the project area right there, Route 27 and
2 201. This zooms in a little bit on the project area. You can
3 see the two ridgelines that we're proposing the build on.
4 There would be 17 turbines proposed for the southern portion of
5 Kibby Mountain, and 27 proposed for Kibby Range. That's the
6 wishbone shape.

7 Also on this map you can see the proposed
8 transmission line road. That goes into the Bigelow substation.

9 Why did we choose the Kibby site? The winds on these
10 ridgelines are ideal for wind power generation: They are
11 strong and steady. The site is currently under active forest
12 management and there is good access available. There was a
13 project involving these ridgelines some years ago proposed by a
14 company called Kenetech. There were over 600 turbines proposed
15 in that project and involved a number of other ridgelines. You
16 can see that in the map here. We're proposing to build on
17 these two ridgelines.

18 Given our wind data, the previous developer's wind
19 and environmental site information, as well as the previous
20 LURC decision, we decided to pursue this opportunity as an
21 acceptable site.

22 We have done numerous environmental and community
23 assessments. I won't go through all of these, but this is a
24 list of some of them. Many aspects of the site and the
25 surrounding area were studied in order to characterize distinct

1 site uses, the natural resources, as well as the other
2 considerations you see here.

3 We did numerous ecological field programs. This is a
4 list of them. Again, I won't go through them. These are all
5 available for review, but TransCanada, alongside our
6 environmental experts, undertook these over the last two-plus
7 years. We worked to understand the natural resources in the
8 project area, as well as the potential impacts related to the
9 project development.

10 These studies have allowed the environmental and
11 engineering team to coordinate closely in minimizing the
12 footprint, as well as potential environmental impacts.

13 Specifically, avian and bat considerations typically
14 come up in relation to wind power development. The studies
15 done by the previous developer indicated that the avian risk
16 was low, and our current studies have confirmed this to be the
17 case.

18 Project design, and specifically the turbine
19 placement, as well as the construction method, will ensure that
20 risk to birds, bats, and other natural resources is low.

21 There are a number of project benefits. The project
22 represents an investment of approximately 250 to \$300 million
23 and that will contribute over \$1 million in taxes to the State,
24 as well as approximately \$25,000 in taxes to Eustis, and we've
25 proposed to contribute to the Town of Eustis/Stratton \$1000 per

1 megawatt of installed, should the project be built. That's
2 whether the project would be generating electricity or not.

3 The project will need 250 people at the peak of
4 construction, as well as ten to twelve permanent jobs once it
5 would be in operation.

6 Our mandate is to hire locally whenever possible.
7 We've already been meeting with local contractors, and given
8 the nature of the work, we found that we can find a lot of what
9 we need right here.

10 Finally, wind power does not generate emissions such
11 as other fossil fuel generation would.

12 As far as project timeline, we submitted our LURC
13 application in January of this year, and we subsequently
14 submitted transmission line information shortly after that, and
15 that resulted in this October hearing.

16 The current plans are to begin construction in 2008
17 should we have a LURC decision and the other necessary permits
18 that we would need at that time.

19 We would start clearing in early winter of 2008, we
20 would stop work during mud season -- or the spring wet
21 season -- and then we would then start road construction in the
22 summertime.

23 And then we anticipate, again, should we get all the
24 necessary authorizations, to go into operation later on in
25 2009.

1 Thanks very much.

2 THE CHAIR: Thank you, Christine. All right. I
3 guess we'll move to swearing in, so all of you who are planning
4 to testify, you need to stand up, please. The usual, raise
5 your right hand.

6 (Witnesses were sworn en masse.)

7 THE CHAIR: Thank you, have a seat. Now, I just want
8 to review my rules. Some of you from last night may remember
9 those, but one, I'm asking you all to keep your remarks to five
10 minutes or less and that there be no applause for people who
11 you like what they said.

12 I think you can tell them tomorrow morning at coffee,
13 but as I said last night, applause doesn't really do much for
14 us and it kind of wastes a lot of time. So we would appreciate
15 it if you didn't have these demonstrations of support for
16 whatever you hear. As I say, you can talk to people later and
17 support what they said.

18 With that we can begin. Now, I notice on my list I
19 have one member of the legislature here. As a courtesy to
20 them, I'm going to let him speak first if he so wishes or he
21 can take his turn. It's his risk. I won't tell him where he
22 is on the list.

23 REPRESENTATIVE FITTS: I'll go. Thanks. Chairman
24 Harvey and members of the Land Use Regulation Commission. My
25 name is Representative Stacy Fitts, and I'm from Pittsfield. I

1 represent House District 29, which is Pittsfield, Detroit, and
2 Clinton, and I sit on the Utility and Energy Commission, as
3 well as the Wind Power Task Force. I'm trained as an engineer
4 by trade and spent most of my career in the generation
5 business. I bring that eye to the task force and hopefully to
6 the Commission in the their deliberation.

7 One of the things I just wanted to come forward
8 tonight and stress, I guess, is that the legislature has
9 demonstrated an interest in advancing wind power in Maine.

10 I think through all of the various meetings that the
11 Commission's had, it's been demonstrated that Maine is not in
12 an energy crisis but is in an energy crossroads. New England
13 in general is dependent on natural gas for the majority of the
14 energy that we consume, and anything that we can do to offset
15 the use of natural gas -- especially as it sets the price for
16 electricity today -- will be a benefit to Maine and the rest of
17 New England.

18 I think the legislature has demonstrated without a
19 doubt that its preference is to advance renewable generation in
20 Maine, especially indigenous renewable generation, and that
21 being hydro, wind, and biomass as the primary sources that we
22 have available to us here.

23 Maine in general has been classified as the primary
24 source for potential wind generation in New England, and we
25 need to exploit that as much as possible without harm.

1 So I bring to you at least my perspective as what the
2 legislature's intent was as they passed 2000 -- or LD 2041 --
3 last session, which basically set a priority for us to, as a
4 State, increase our use of renewables by 10 percent by the year
5 2017, and the only way that that can happen is with wind
6 generation as one of the primary sources to fill that void.

7 We also in the last session passed LD 1920, which
8 implemented the policy and set the tone for moving through that
9 10-percent increase. Again, the only way that that will happen
10 is by us, as a State, recognizing wind power as one of the
11 primary vehicles to achieve that.

12 One of the interesting things is that the
13 legislature, I think, probably spent as much time studying this
14 as you guys have. I know how painful that can be at times.
15 The utilities and energy committee spent long hours
16 deliberating how we arrived at the wording for the bills that
17 we have passed and those were generally unanimous votes.

18 We also, as a legislature, recently passed a joint
19 resolution to encourage wind development, so I think -- and
20 that was a unanimous vote -- and I think what that means is as
21 far as how the State is headed, that we are setting that as a
22 priority for us to move forward and we can't ignore that.

23 It's my perception, anyway, that this isn't a policy
24 that's here today and gone tomorrow. It really is the only
25 alternative that we have to move forward and to get off of

1 fossil fuel dependence and to try to offset some of those
2 high-cost fuels that are now setting the price for electricity.

3 I guess I want to close with this isn't necessarily a
4 busy time for legislation but it's a busy time a year for
5 legislators. So I guess the reason you don't have a steady
6 stream of legislators here is because some of us have a life
7 and that is difficult in the off season.

8 But I guess the only thing I would ask is that you
9 review with diligence the letters that do come from the various
10 legislators. I know the chairs of the utilities have put forth
11 their thoughts on this matter and that and leadership, I would
12 ask that you spend some time looking through those letters and
13 I thank you for the hard work that I know you guys are up
14 against and how at times it is a thankless job.

15 I certainly appreciate the hard work and the
16 dedication that you have and the difficult choices that you
17 have to make sometimes.

18 Just as somebody who's been in the energy world for a
19 while, I don't see any other alternatives, and we need to,
20 where appropriate, as the legislation said, advance as much
21 wind power as we can to help offset our issues with natural
22 gas. Thank you.

23 THE CHAIR: Thank you, Representative Fitts. Just so
24 you know, we did have two other legislators come last night.

25 REPRESENTATIVE FITTS: They came from a little less

1 distance.

2 THE CHAIR: Yes. Well, I don't know, Mr. Carter came
3 from Bethal. That's a long.

4 Thank you anyway for coming.

5 REPRESENTATIVE FITTS: Thank you.

6 THE CHAIR: All right. Working on the list, Sidney
7 Shane, are you here? And then following Sidney is Vera
8 Trafton.

9 MR. SHANE: My name is Sydney Shane, I work for the
10 Maine DOT as a mechanic. I belong to Eustis Fire Department,
11 I'm the assistant fire chief. I belong to Carrabassett Fire,
12 and we belong to North Star Rescue, Backwoods Rescue. And look
13 around the room and everywhere you go you see computers, cell
14 phones, all new electrical stuff, so that power's got to come
15 from somewhere and nothing is free in this world, even the wind
16 power, we've got to give and take a little bit.

17 The roads are already -- most are in there, if
18 anybody goes up in there, there's a lot of roads, 30, 40 feet
19 already. If they can't get tractor trailers up there because
20 they weren't wide enough, so they're making them wide.

21 We've been on rescues in back woods for hikers and
22 some of these hiker trails where they don't want nothing going,
23 but we've lugged them out and their trash, too, where other
24 people have left.

25 So people have to look around. We've got to give

1 somewhere because fossil fuel is going to run out, it's killing
2 our ozone, and just everything, and I think it's a good idea.
3 I'm for it.

4 No, I don't want a lot of our lands to change because
5 our lands, Mother Nature ain't making any more of it, but we've
6 got to save something somehow, and we've got to give. And it's
7 not my backyard. If we don't put it in somebody's backyard,
8 we're not going to get nothing and we're just going to end up
9 ruining it ourselves.

10 Thank you.

11 THE CHAIR: Thank you, Sidney. Vera. And following
12 Vera is Chuck Knox.

13 MS. Trafton: Chairman Harvey, commissioners, my name
14 is Vera Trafton. I live in Phillips. I'm here tonight
15 speaking for myself and for my husband Dain to urge you to deny
16 TransCanada's request to build a wind plant on Kibby Mountain
17 and the Kibby Range.

18 What is at stake in this hearing is the preservation
19 of a beautiful and wild place, a large section of the boundary
20 mountains surrounding Kibby Mountain and Kibby Range.

21 This section of mountains with its narrow forested
22 valleys and small streams and ponds is the kind of place that
23 defines the western mountains of Maine that makes them what
24 they are.

25 On a clear day you can look out all the way to

1 Katahdin in one direction and to the Presidentials in the other
2 and feel you're at the heart of an enchanted land. Such places
3 are becoming rare in our developed world and will almost
4 certainly become rarer. Their value is not just environmental
5 and aesthetic, but economic as well.

6 I think the economic future of this part of Maine
7 depends on its wild and beautiful places, which draw people to
8 them: Hunters, fishermen, snowmobilers, hikers, ATV riders,
9 outdoor people, including retirees. You heard all this from
10 Bob Kimber, one of the fine writers who has celebrated the area
11 so eloquently.

12 Of course the mountains around Kibby and Kibby Range
13 have been logged and heavily, but trees grow back. There is a
14 great difference between a logging operation who's traces are
15 soon covered by new growth and a wind plant, such as
16 TransCanada wants to build, with its 44 turbines, most of them
17 above 2700 feet, many of them lighted, its miles of road, and
18 its 27-mile transmission line.

19 This very large industrial installation won't soon
20 disappear. On the contrary and in spite of the effort of
21 mitigation by AMC, NRCM, and Maine Audubon, this plant will be
22 visible for miles around for years to come.

23 I think it is indisputable that if this wind plant
24 were to be built, a place of great value in northern Franklin
25 County would be compromised and for what. For the investors of

1 TransCanada it might prove to be a great deal, but for the
2 people in this area, the compensation for our loss seems to be
3 doubtful at best.

4 TransCanada talks about a \$270 million project and
5 has spread money around in an effort to create the impression
6 that their plant will be a good deal for everyone, not just for
7 investors in TransCanada.

8 But if this is really such a good long-term
9 proposition for northern Franklin County, why all the hang ups?
10 In fact, industry of wind plants in areas like ours suggests
11 that very few of the project's profits will end up in local
12 pockets. The 44 turbines, which will account for more than
13 two-thirds of the budget, will come from Denmark. The
14 engineers and other specialized workers who erect the turbines
15 and maintain them will be from away.

16 It is not at all clear how many of the 150 to 250
17 temporary jobs mentioned in the application will go to local
18 people rather than to workers from Denmark or Calgary.

19 As for permanent jobs, ten or more are promised but
20 commonsense, as well as practice in other wind farms, suggests
21 that TransCanada will not need a maintenance and clerical staff
22 of ten constantly available in Stratton.

23 Finally and most importantly, we don't need this
24 plant. Maine already exports electricity and produces more
25 renewable energy than our renewable portfolio standard, the

1 highest in the country.

2 As for LD 1920, which was enacted by the legislature
3 during 2007, nothing in its language requires that the
4 1 percent of new renewable power each year come from wind
5 power. In fact, providers can satisfy the requirements by
6 purchasing renewable energy credits or by alternative payment
7 mechanisms that the MPUC will devise.

8 Some seem to think that we are morally bound to build
9 wind plants almost everywhere in order to combat global
10 warming. But questions have been raised about whether a plant
11 in the western and central Maine area of the grid can do much
12 or anything to cut emissions at dirty coal plants or oil
13 plants.

14 TransCanada has not shown precisely which fossil fuel
15 plants could be expected to be forced to cut back by operation
16 of a plant on Kibby. The emissions displacement analysis in
17 TransCanada's application is based on marginal emissions rates,
18 that is, on averages of Maine and New England as a whole, not
19 on grid modelling that matches expected operations of a wind
20 plant at particular times with past experience of the grid,
21 including congestion at those times.

22 Without such modelling, the commissioners and the
23 citizens of northern Franklin County are being asked to accept
24 TransCanada's sales pitch on faith.

25 Thank you very much.

1 THE CHAIR: Chuck. After Chuck is Tony Owens.

2 MR. KNOX: Good evening. Thank you, Mr. Chairman and
3 members of LURC.

4 My name is Chuck Knox and I live in southern
5 New Hampshire but I know northwestern Maine very well. I've
6 been coming here for over 50 years hiking these mountains. In
7 fact, my wife and I about ten years ago built a camp in Adams
8 Township.

9 Why do I come? I didn't come for wind power, to see
10 wind power plants. But I do come because I love the mountains
11 and I particularly love the Kibby area, the area north of
12 Stratton.

13 I've sat up on Kibby probably as much as anybody in
14 this room over the years, oftentimes by myself, sometimes with
15 my daughter who loves to hike as well. This summer, I was
16 sitting up at the top and looking out across the vast sweep of
17 peaks and ridges and clouds were going by when it was one of
18 those days where it was sunny and cloudy, sunny and cloudy; and
19 I love the area because of all the peaks you can see, all the
20 ridges you can see, and I got to thinking, I know it's unique
21 but how unique is it?

22 Afterwards, after we got down, I did as objective
23 studies as I can, I suppose, by looking across the state of
24 Maine on a Delorme map -- I read the entire application of
25 TransCanada and got some information from them -- but just to

1 count how many peaks there were above 3000 feet. I just
2 selected that number arbitrarily, it sounded like a reasonable
3 number to base some decision on, see how concentrated the peaks
4 were. I arbitrarily picked 20 miles because I figured, well, I
5 can certainly see 20 miles' worth of peaks -- in fact you can
6 probably see 40 or even 60 miles on a clear day -- and the
7 converse is true, of course, as well. From the peaks you can
8 look back on Kibby Range.

9 I didn't know what to expect. I thought, well, maybe
10 eight peaks over 3000 feet, maybe 12, 14, 16. Twenty-six
11 peaks, 26. For a wind power project to go into this area so
12 special to me is like a stake in the heart of what is the most
13 corrugated region in the entire state of Maine.

14 Indeed, I studied the entire state of Maine after I
15 checked that, and there isn't one area in the entire state
16 where you can put your finger down and draw a radius of 20
17 miles and come up with that many peaks -- not in Rangeley, not
18 in the Bethal area, nowhere. Certainly not up in the
19 Greenville area. This is it, this is it. And knowing how
20 urbanization is creeping its way northward up the eastern
21 seaboard, for me it was always northwest Maine and the area
22 around Kibby and the mountains I love to climb, Snow Mountain,
23 Bigelow, which you can see from Kibby; but, again, for this to
24 come, it would mean the loss of a precious area. In fact, it's
25 more than precious, it's irreplaceable.

1 I would just add also as an aside, you know, one
2 thing that I've been reading about and hearing about is that
3 there is no impact on the avian -- birds. I find that a little
4 bit hard to believe.

5 Granted my experiences are strictly antidotal, but
6 I've spent so many hours up in that range in that area, and I
7 have never, ever, ever been there without seeing raptors soar
8 over the summit, and I'm not talking about 1000 feet over the
9 summit, far over the tops of the wind blade; but as high or as
10 low as this roof, as this ceiling. I've seen broad winged
11 hawks, Buteos, I've seen Sharp-shinned hawks, and it stands to
12 reason for the very reason that this area was chosen by
13 Kenetech and now TransCanada because the winds come off, the
14 northwest winds sweep down from the flat St. Lawrence Valley,
15 hit the boundary mountains and actually get funneled by the
16 Bernoulli effect that comes right through Coburn Gore and that
17 area and goes up over Kibby Mountain, down over Kibby Range.

18 That's the very reason why birds, why hawks
19 especially, love to soar over this area from one ridge to the
20 other.

21 I just -- maybe I'm totally erroneous that somehow I
22 missed something, but I know that I certainly have seen many,
23 many birds, and I hate to see them run the gauntlet of these 44
24 wind towers.

25 So once again, I would simply conclude that in my

1 mind, this is a special area. It is the most corrugated
2 landscape in the entire state of Maine, and I would urge you
3 folks, commissioners, to adhere to LURC Chapter 10-E, the
4 Scenic Character, which as you know requires that all
5 structures be located so as to minimize -- to create the least
6 impact on ridgelines and mountain peaks.

7 To me this is sort of just the opposite. So once
8 again I thank you for your consideration. I appreciate what
9 you're going through.

10 I've been in your seat, I've worked in conservation
11 in the environmental field my whole adult life. I've worked
12 for an environmental agency for 20 years and been in your seat,
13 and I know how tough it is to make these decisions.

14 But I would urge your to refer to your regs strictly
15 and consider the special quality that is unique, not only to
16 Maine, but this is it. This is it for the eastern seaboard.

17 Build these, again, this would create -- virtually a
18 stake in the heart of this much corrugated landscape and 44
19 stakes with three blades each. Thank you.

20 THE CHAIR: Thank you, Chuck. Tony. And after Tony
21 is Jack McKee.

22 MR. OWENS: Chairman Harvey, I saw you cupping your
23 ear. Can you hear me okay?

24 THE CHAIR: Some people's voices are soft, and I have
25 a little hearing loss. You need to bring the microphone very

1 close, that's all, and that will help everybody.

2 MR. OWENS: Is that any better?

3 THE CHAIR: That's great.

4 MR. OWENS: Good evening, my name is Tony Owens. I'm
5 from Cape Elizabeth and I'd like to thank the Commission for
6 the opportunity to address my concerns regarding this project.

7 By way of introduction, I visited this site prior to
8 its originally being proposed as a wind site by Kenetech in
9 1994. I've also visited the site within the last year with the
10 meteorological towers in place.

11 I have to believe your busy schedule wouldn't have
12 included this hearing if it weren't for the coming together of
13 numerous factors, including oil and subsequent electrical costs
14 at record levels, taxpayer comments, production tax credits at
15 2 cents a kilowatt hour, and delay the acceptance by our
16 society that global warming is an emergent problem, private
17 enterprise with lucrative opportunities to receive generous
18 return on investment resulting in rapidly growing number of
19 wind power applications on your desks.

20 Like our Maine municipal zoning boards, you have laws
21 and regulations to guide your decisions. Absent among them are
22 discussions about global warming, guidelines on wind turbine
23 siting; yet this project's supposed contribution to carbon
24 abatement and global warming has become the significant issue
25 in the discussion.

1 I will address three areas: The environmental
2 impact, mitigation, and contribution to carbon abatement.

3 Environmental impact. The construction and daily
4 maintenance of this project with its 44 turbines, thousands of
5 tons of concrete, miles of new and improved roads, greater than
6 25 miles of new transmission lines, and hundreds of
7 construction workers will not have a negative impact strains my
8 credulity.

9 Experts have testified that there will not be any
10 impact on threatened habitat or fauna. If this information is
11 already known, why isn't it all graph to perform study after
12 the fact on the impact of construction and operation to birds
13 and bats.

14 Mitigation. If there were no impacts that would be
15 required in mitigation to compensate for the damage or loss of
16 the project, why is mitigation proposed? The promise to not do
17 any more damage further up the mountain, that's like asking the
18 fox not to come back to the hen house two days in a row.

19 \$500,000 of purchased land removed from the Kibby
20 Range. This amounts to less than one-quarter of 1 percent of
21 the \$250 million construction costs and is a one-time payment;
22 however, taxpayers, through the production tax credit of
23 1.9 cents per kilowatt hour, will be contributing \$6.8 million
24 annually to TransCanada.

25 Carbon abatement. Global warming is a global problem

1 requiring global solutions. TransCanada's project amounts
2 literally to a drop in a 55-gallon drum of production
3 nationally in the United States.

4 There is a finite amount of financial resources to be
5 used in limiting carbon emissions. Logics and economics should
6 compel us to do things, first, that would give us the best
7 return to pick the low hanging fruits, so to speak.

8 Energy production costs account for less than
9 one-quarter of carbon emissions globally, while 75 percent of
10 the opportunities for carbon abatement, like in the areas of
11 manufacturing, building efficiency, transportation, and forest
12 and agriculture. Finally, it is twenty times cheaper to keep a
13 ton of carbon out of the atmosphere through conservation and
14 efficiency than through wind power development.

15 In conclusion, I believe deeply that global warming
16 is a crisis demanding an immediate, cost effective response,
17 that using it as a justification for the trade-offs required in
18 permitting this project is illogical, poor economics, and bad
19 public policy.

20 Additionally, the governor's task force on wind power
21 siting is scheduled to submit their reports soon. It makes
22 sense to defer any decisions until this information is
23 available for public comment. Thank you. I'm happy to answer
24 any questions.

25 THE CHAIR: Thank you, Tony. I appreciate it. All

1 right, Jack, are you here? After Jack is Richard Jennings.

2 MR. MCKEE: Chairman Harvey, members the Commission,
3 Director Carroll, my name is Jack McKee, a resident of
4 Kingfield, retired -- I wish I stayed retired. I've got to say
5 one thing before I go. TransCanada, you know, has done what I
6 think is a pretty fair job of meeting with the local people,
7 and I don't know if our board of selectmen has adopted a
8 resolution one way or the other. I know speaking to them
9 individually, they are quite supportive, but I want you to know
10 that there are some folks in Kingfield that are supportive of
11 the project as well.

12 I'm going to skip over the records to the
13 legislature. Representative Fitts, I think, did a superb job.
14 There's no point in me trying to repeat that.

15 I am dismayed -- and incidentally, you will or have a
16 hard copy of this, so you don't even have to listen, you can
17 read it if you want it -- I'm dismayed by those who profess to
18 support wind power but in the same breath express the view that
19 the facility should be constructed elsewhere, perhaps anywhere
20 but here.

21 The NIMBY philosophy to me is both ancient and
22 intellectually repulsive. This position reflects a myopic view
23 I find totally unacceptable. Reliance on conservation,
24 laudable as it is in which some identify a solution, have spent
25 little supporting and is but a dream at this point. All you

1 have to do is try to follow the United States Congress to see
2 what's going on with conservation: Nothing.

3 Members of this Commission were exposed to a report
4 from the Northeast Climate Impact Assessment at recent hearings
5 on the Black Nubble project. You will recall that report was
6 produced by the Northeast Climate Impact Assessment Synthesis
7 Team -- that's a mouthful.

8 That report, in and of itself, provides ample
9 evidence of the absolute necessity to take major and immediate
10 action to provide new, clean alternatives for the generation of
11 electric power. It is that impact that drives us to the most
12 obvious conclusion that construction of the Kibby project, and
13 many others like it, is essential.

14 According to this report, "The primary drivers of
15 climate change are the burning of fossil fuels such as coal and
16 oil and tropic deforestation." Admittedly, our ability to do
17 much about tropic deforestation is pretty limited, but that is
18 most assuredly not the case with fossil fuels.

19 We can do things which will assist in reduction of
20 our reliance of fossil fuels as a primary source of electric
21 power generation. This Kibby project, like the Black Nubble
22 project you considered previously, gives Maine an opportunity
23 to give an actual factual demonstrable evidence of the State's
24 commitment to a cleaner, more healthful environment.

25 If we permit this continued warming to continue

1 unabated, it will -- and according to the report and many other
2 reports, by the way -- have a significant impact on not only
3 the environment but the economic structure of the entire
4 region.

5 For those who would have us believe the problem is
6 not really serious in Maine and the rest of the northeast, I
7 suggest you hear what I consider to be the most stunning and
8 frightening fact. In a table identifying energy-related carbon
9 dioxide emissions in the world, this region -- this region --
10 stands No. 7. In other words, this region produces more
11 energy-related carbon dioxide emissions than do nations such as
12 Canada, United Kingdom, Italy, Australia, and others.

13 The report I noted at the outset defines with almost
14 frightening clarity the impact of climate change on the
15 northeast. I recall listening to one of the witnesses during
16 the Black Nubble hearing defining the impact both in present
17 and projected of growing air pollution on the health of Maine
18 citizens, primarily the young and the elderly, of which I'm one
19 by the way.

20 She did not paint a pretty picture. A brief by the
21 Northeast Climate Impact Assessment focusing on Maine offers
22 the following: "We have an opportunity to help protect our
23 children and grandchildren from the most severe consequences of
24 global warming by reducing emissions today."

25 As described in the NCIA report, the negative impacts

1 of our continued reliance on fossil fuels are defined in lurid
2 terms. I will not go into detail here, but recommend you, if
3 you've not already read that report, you do so.

4 For those who claim we cannot clean things up without
5 seriously damaging the economy of the region, I say, make
6 yourself aware of the potential damage to agriculture, winter
7 recreation, forests, water supply, et cetera. It is glaringly
8 obvious, these impact our economics.

9 Folks a whole lot smarter than I have given ample
10 evidence that the environment and economy can move forward
11 together.

12 It is not an either/or situation. Every baby step we
13 take towards the elimination fossil fuel power generation is a
14 step toward a better state. This is one of those steps. I'm
15 going to close with the same paragraph I had at the last time
16 at Black Nubble.

17 My eldest great grandson is 12 years old this year.
18 If he's to enjoy the same longevity I have, he will reach my
19 age in the year 2077, that's 70 years. I pray this nation will
20 not deprive him of the good life, that life that I, for the
21 most part, have enjoyed.

22 The Commission has an opportunity to strike a blow
23 for him and the millions of his peers by your support of wind
24 power in Maine, and I urge your support for this project.
25 Thank you very much.

1 THE CHAIR: Thank you, Jack. Richard, are you here,
2 and after Richard is Wilma Stack.

3 DR. JENNINGS: Thank you. I am Richard Jennings, I'm
4 a retired physician. I'm from away, I grew up in Belfast and
5 now I live down near Augusta, so I don't come from this area.
6 I don't know how many of these meetings I have to go to be a
7 groupie but I'm working on it.

8 I'd like to comment on something I heard this
9 afternoon in the cross-examination of Sean Mahoney, and I think
10 it was alleged that cutting the cost of electricity would
11 discourage people from conservation.

12 As a psychiatrist I like to think I know something
13 about human nature, and I like to believe that human nature can
14 change. We saw a change in attitude towards slavery, then
15 women's rights.

16 I think we are at the point now where we have to
17 change our attitude about conservation and we have to start
18 conserving. That's one step.

19 Beyond that, I would like to relate a really
20 almost -- I don't want to exaggerate -- but an almost
21 transformation last Saturday when I had the occasion to go to
22 Mars Hill and that was a very impressive visit. It did make me
23 somewhat thoughtful about all the time, however, that was spent
24 on visual impacts and auditory impacts in these hearings, which
25 I heard over and over, and I think that was really unnecessary

1 perhaps, because obviously these things are going to be seen,
2 and driving from Houlton up to Mars Hill, you did see them.

3 In my view they were not ugly and they were not bad.
4 I thought perhaps after I saw them close up and stood under
5 them and walked around them, I would think -- believe me, the
6 Washington Monument in Washington or the Air Force Memorial,
7 and if you've seen pictures of those, you might get a sense of
8 what I'm talking about. In my view they're really quite lovely
9 and quite beautiful. I know that's my view and a lot of people
10 share that.

11 However, the people that we talked to in Mars Hill
12 seemed to think that they're nice, not just because of the
13 tax benefits. We were visiting one family that lived less than
14 3000 feet from about seven of these things, and we were there
15 about an hour, and not only can you see them, you can hear
16 them. We heard these.

17 I don't want to get too much into my personal life,
18 but I do have sleep apnea, and if you're familiar with that
19 there's something called sleep ap, which is a machine that
20 helps you breathe at night. My sleep ap machine makes at least
21 as much noise as those turbines.

22 I grew up on the coast down in Belfast, and the
23 sounds of those turbines is very reminiscent of the surf at
24 night, and I found it rather relaxing.

25 So I won't go into greater length, but think even if

1 every adverse impact thing we've heard, even if they were all
2 true -- and I think there's ample evidence they're not -- but
3 if they were all true, we still have to have alternative
4 energy. We still have to have wind power.

5 If the ship's going down, you can't say, well, we're
6 not going to use that lifeboat or those oars are the wrong
7 color. You're going to do that. You're going to take what
8 you've got. Thank you.

9 THE CHAIR: Thank you, Richard. Is this Wilma? Then
10 following that is Lou.

11 MS. STACK: Thank you, Mr. Chairman. I don't like to
12 get up and talk with people, but I feel that I have to on this
13 one.

14 I've lived in this area on and off since 1947 and
15 people say not in my backyard. This is in my backyard.

16 THE CHAIR: Wilma, just -- just state your name for
17 the record, please, so Lisa knows who you are.

18 MS. STACK: Wilma Stack.

19 THE CHAIR: Okay, thanks.

20 MS. STACK: This is in my backyard and I see nothing
21 wrong with it. The transmission line will be 400 feet from my
22 dwelling. We've had this since 1947.

23 We must have clean energy, and this is a clean energy
24 source, so I strongly urge the Commission to vote in favor of
25 this project. Thank you.

1 THE CHAIR: Thank you, Wilma. Lou, are you here, and
2 then after Lou is Herbert Bachelder.

3 MR. STACK: I'm Lou Stack. I'm from Standish, Maine.
4 Our family has owned a camp in Shapleigh Township since 1947,
5 60 years now.

6 It's kind of ironic, if you looked at this handout by
7 TransCanada, you see a reference to Vine Road. Our camp, I
8 want to put a face with a place here. Our camp is on Vine
9 Road, it's the only one on Vine Road.

10 They came out with what you call Vine Road, they just
11 named it a couple of years ago. You turn left. We've done
12 that probably hundreds of times and we intend to continue to
13 come out that road, turn left, and view those mountains.

14 We've hunted and fished here for, oh, 40 years in my
15 experience. I don't see that these wind power turbines are
16 going to affect our enjoyment of the area. The -- when we --
17 when I come out to turn left, I will not see an ugly site, I'll
18 see pollution-free power being generated.

19 And I just want you to know that we support this
20 project, and we're hoping to enjoy these mountains hunting and
21 fishing for the next hopefully 20, 25 years. Thank you.

22 THE CHAIR: Thank you very much, Lou. Herb, are you
23 here? Here he comes.

24 After Herb is Louise Tesseo.

25 MR. BACHELDER: My name is Herb Bachelder. I used to

1 work for Kenetech back when they was up on Kibby trying to get
2 the wind turbines up there then.

3 I spent a lot of time up there, and I don't see a
4 thing wrong with wind turbines up there myself. That's my
5 opinion.

6 These people that are squawking about the wind
7 turbines, you watch and they're out there talking on their cell
8 phones. Well, how do they think they're talking on their cell
9 phones? If it weren't for them towers on top of the mountains,
10 they wouldn't be talking on the cell phone. What's the
11 difference? A cell phone tower or a wind tower?

12 As far as the people that own that land up there,
13 they've been real good, the paper companies have, about letting
14 people in there and things. They aren't going to keep that
15 land if they can't make a profit up there.

16 Putting turbines up there helps them, as far as the
17 amount of money that they get per year, and if they can't make
18 a profit, they're going to sell it and maybe to some developer
19 and then what you're going to see up there is no trespassing
20 signs.

21 So I think this -- the idea of wind power up there is
22 a real good idea, and it's going to help to keep it open so the
23 public can be up there.

24 I appreciate you giving me this time. Thank you.

25 THE CHAIR: Thank you, Herb. Appreciate that.

1 Louise, are you here? And then following Louise is Terry.

2 Just take a deep breathe and relax. Come right up to
3 the microphone because we want to hear everything you've got to
4 say.

5 MS. TESSEO: My name a Louise Tesseo, and I strongly
6 oppose this project and any industrial wind farm on our
7 protected mountains.

8 LURC protected these mountains 30-odd years ago and
9 has an obligation to continue to set strict guidelines in order
10 to maintain Maine's pristine environment.

11 Our planet is in trouble because we have bulldozed it
12 to death. Why add salt to an already gaping wound? Why not
13 put these monstrous things next to all coal-fired power plants
14 where they belong and leave our important ecosystems alone.

15 It's not just my backyard, it belongs to all of us
16 who live here and visit here. These beautiful mountains will
17 be gone forever if you allow money to talk. Please do your
18 best, do the best things for our mountains, and let them stand
19 tall and intact. Thank you.

20 THE CHAIR: Thank you, Louise. Terry, are you here?
21 There he is.

22 MR. TESSEO: My name is Terry Tesseo. I'm a NIMBY.
23 I'm opposed to the zoning change of the Kibby Mountains.

24 It's not about wind power, it's not about global
25 warming, it's a zoning change to take these protected mountains

1 out of protected zoning.

2 Unlike the governor of Vermont who said the amount of
3 power from wind plants is not worth the loss of Vermont's
4 mountaintops, Governor Baldacci wants to house thousands of
5 these things because of southern Maine's insatiable thirst for
6 energy.

7 So we destroy our mountains, our natural resources in
8 Maine for Connecticut and Massachusetts. They can put them
9 down there and do it down there. Why should we have to supply
10 their energy, any of it.

11 The Brookings report says, to save Maine and special
12 places and protect our natural resources, I thought that's why
13 the mountains in Maine above 2700 feet are protected.

14 So with Governor Baldacci's commitment to wind power,
15 I say there will be many, many more wind plant permits being
16 applied for by tons and tons of people because our governor and
17 our legislature and everybody wants the wind plants, and we'll
18 have tons more permits coming down the road.

19 It is unwise to take our mountains out of protected
20 zoning for anything. Maine's about natural beauty and the
21 lakes and mountains and ocean, not wind development on
22 protected mountains. I say to the commissioners of LURC,
23 honestly, can you say that ten miles of wind turbines, 410 feet
24 with flashing red lights on mountaintops where the trees are no
25 taller than 30 feet and the turbines are a quarter as tall as

1 the mountains will fit harmoniously into the natural
2 environment?

3 We need to protect our mountains for our kids and for
4 Maine. Thank you.

5 THE CHAIR: Thank you, Terry. Kenny Wing, is he
6 here? Following Ken is Michael Bobish.

7 MR. WING: My name is Kenny Wing. I'm retired and
8 I've been a lifelong resident of Eustis. I represent myself.
9 Good evening LURC commissioners and LURC staff. I will be
10 brief read as fast as possible. I also have a copy of this to
11 hand in.

12 I've already chiselled some things out. I will say
13 here now that I'm opposed to any development, including that
14 which is before us now, mainly, TransCanada's proposed wind
15 power project on Kibby Range, which would require a rezoning of
16 LURC districts above 2700-foot elevation.

17 I'm not opposed to generating electricity by water,
18 wind, tides, solar, and even nuclear. I also support and
19 practice conservation religiously. I am very familiar with our
20 western mountains, and my opposition is not based on a "not in
21 my backyard" attitude.

22 As I've already stated, I have been a resident of the
23 town of Eustis all my life. I am a graduate forester, and
24 until last month I enjoyed status as a State-licensed forester.
25 I've worked a real job as a forester for Scott Paper Company in

1 the early '70s, and I crisscrossed that land's ownership many
2 times from Route 27 to the other side of Moosehead Lake. I did
3 this even before there was a LURC.

4 I've always supported land use regulations in our
5 unorganized townships and applauded LURC in the late 1970s for
6 being forward thinking when it comes to zoning the fragile
7 environments at higher altitudes.

8 I started working as a forest ranger for the State in
9 1987 and in '89 I became the district ranger of Rangeley
10 District, a position I held with great satisfaction until my
11 retirement two years ago.

12 I was directly responsible for fire control in a
13 district that encompassed 3 million acres. That's an area from
14 New Hampshire to Greenville and from Jackman to the Kennebec
15 County line. I supervised eight other forest rangers to
16 accomplish this important task.

17 I also conducted and supervised many other
18 conservation law enforcement tasks. One such important arena
19 was dealing with non point-source pollution in LURC and DEP
20 jurisdictions.

21 During the mid to latter part of the 1980s the Maine
22 Forest Service entered into a memorandum of agreement with LURC
23 and DEP to help those two agencies deal with non point-source
24 water pollution. The commissioner of the Department of
25 Conservation signed this agreement and promised to pledge his

1 active participation to stand and prevent environmental
2 degradation.

3 One important aspect of all this was activities above
4 the 2700-foot elevation in LURC jurisdiction. We were taught
5 about this environment by LURC staff, and as such, I was asked
6 many times by LURC to comment on proposed landowner activities
7 in that district. I can assure you I read ever proposal and
8 permit request and took that task very seriously.

9 For many years I was the one in the Maine Forest
10 Service who authorized enforcement procedures of LURC
11 regulation violations in the western mountains of Maine. Every
12 major landowner developer knew my name. Was I one of their
13 more favorite people? Probably not, no more than LURC
14 enforcement staff, but I did it because it was good for the
15 environment.

16 As one of the conservation law enforcement staff in
17 the State of Maine, I told landowners they could not build
18 above the 2700-foot line. I worked with landowners to find
19 better solutions.

20 I don't blame the large landowner for wanting to
21 enter into an agreement with a developer in order to gain an
22 income from land, such as a lumber job. Before I agree to the
23 proposal, I would rather see it change to allow more timber
24 harvesting above 2700 feet.

25 From everything I know and experienced and feel in my

1 heart, I am firmly convinced that allowing rezoning and
2 creation of wind power business on these terrains is a bad
3 idea. It's the location, location, location that disturbs me
4 the most.

5 In my opinion, based on my education and years of
6 working experience, what I've been taught by LURC and LURC
7 support staff, company foresters, publications, and information
8 from groups, such as the Friends of the Boundary Mountains,
9 allowing that development, in this case wind power, in any LURC
10 zoning -- prohibiting [sic] such activity above 2700 feet, it's
11 just wrong for the environment.

12 I believe it's worse than timber harvesting. Wind
13 power is of a permanent nature, it's not like harvesting timber
14 between temporary roads. The roads created for wind power,
15 turbines, and the pads at the towers will not be put to bed.
16 Mother Nature will not have the opportunity to heal itself.

17 The roads at the site will be wide and straight and
18 very permanent. Concrete for the tower pads is very permanent.
19 I will guarantee there will be environmental problems with
20 these types of construction activities in that area.

21 I can't count the number of times I had seen a hard
22 rain make the hillside run brown with silt during the road
23 construction, normal road maintenance, and even normal road
24 use.

25 As I already stated, I believe LURC was very forward

1 thinking in the 70s when it was time to form the zones and
2 regulations. Everyone was saying we are protecting our
3 environment for our future and the future of our families. The
4 year 2007 is the year we stop forward thinking and rezoning,
5 important ecological areas.

6 It will also be very easy for anyone to say to me now
7 wind power is protecting the environment for our future and the
8 future of our families. Please don't misinterpret my comments
9 here tonight.

10 I like the idea of generating electricity by wind and
11 water and the sun and renewables. I will support all of these
12 in the right place. I've seen wind-powered plants on the Gaspé
13 in Quebec and in Kansas and in Colorado and Wyoming. From what
14 I observed, they are located correctly, such as being in
15 agricultural fields, existing clearings, near existing roads
16 and power lines. I support that.

17 I do not support rezoning high altitude environments
18 in Maine to accommodate wind power. I do not support the
19 creation of miles and miles of transmission lines from the
20 Kibby Range to Eustis over hill and dale and over two wetlands
21 of PS-L2s.

22 I think a better way to do this is just slow down for
23 the environment's sake, let the governor's task force of wind
24 power do their job and report back to us on what is best. It
25 all boils down to location and the method of the electrical

1 generation.

2 I'm not a hypocrite. I even support wind power in my
3 home town versus Kibby Range. Why wouldn't anybody agree to
4 this? It's a no brainer. I think the best idea yet is for
5 each and every one of us to conserve on a scale never dreamed
6 of before.

7 This issue is fraught with big business, politics,
8 tax subsidies, green credit, big business, and politics --
9 excuse me, I think I said big business and politics twice.

10 I have learned many aspects, much is greatly
11 discouraging, like turbines are only one-third efficient,
12 existing coal plants will go idle and not really off-line when
13 the wind is generating power, hydropower taken off-line when
14 wind is generating power for transmission line capacity, tax
15 credits and true profit, misrepresentation of figures, global
16 warming, et cetera.

17 It's very confusing. If you open Pandora's box and
18 vote to rezone Kibby Range, then I fear there will be a domino
19 effect in many other restricted zones. I also feel large
20 landowners could, and probably should, request to rezone the
21 lines above 2700 feet to accommodate their forest practices.

22 I believe TransCanada to be a company I can support
23 in the right location. Their people have treated me kindly and
24 have listened to me. I thank them for that. I sincerely hope
25 we can get this location thing down in such a manner that is

1 unquestionably harmonious with our environment.

2 I thank you for your time and patience tonight.

3 THE CHAIR: Thank you, Kenny. Michael, are you here?

4 And following Michael is Brian Ricker.

5 MR. BOBISH: My name is Michael Bobish. I'm a
6 resident of Maine and I live in Eustis. Thank you for the
7 opportunity to speak tonight.

8 When I pulled in the parking lot, the first thing I
9 looked at was the Bigelows, and my first thoughts were how
10 grateful I was that it's a State preserve and it's guarded by
11 the State and it will never be developed. Unfortunately, the
12 entire western mountains of Maine are not under that same
13 protection in my viewpoint.

14 I drove with a friend today through New Hampshire --
15 by the way, before I forget, I am very much against the Kibby
16 project and the wind power that they want to propose up there.
17 I would like to see those mountains stay the way they are, free
18 and wild.

19 As I said, I drove through New Hampshire and at
20 different pockets through the White Mountains there were signs
21 that said, White Mountain National Forest, and again, it gave
22 me that good feeling that this land would never be developed
23 because it's guarded by the State.

24 As I stand here in front of you and share my ideas
25 and my views and my values, I have a voice but that's as far as

1 it goes. I do not have a vote in this matter.

2 What concerns me more than anything is just that
3 there's a small number of people, such as you all in front of
4 me, that have that vote, and you're the only ones that can
5 protect and keep our mountains beautiful and free from
6 development.

7 I don't like the fact that I don't have a vote on
8 this. I don't like it at all. I'm powerless over it, and I go
9 back to what I've learned since I've gotten involved with
10 what's going on up in my area, what's going on in the western
11 mountains of Maine. It's the values that LURC established 32
12 years ago not to do any developing above 2700 feet.

13 Those values were good then, I believe -- I believe
14 that they're still good today and they should be abided by and
15 not undone at -- for the sake of instant gratification.

16 I believe that TransCanada is a strong and powerful
17 company. I believe they're also a very successful company and
18 perhaps in a lot the ways very positive.

19 But what thought goes through my mind is what their
20 motive is to being here. I can't help to think that a little
21 bit of that motive is that there's an awful lot of our US
22 federal dollars that is going to be available for them and
23 huge, huge profits for them to be made.

24 I'm very much for keeping our state and our western
25 mountains as free from development as possible.

1 You know, it took -- it took this country and this
2 world about 50 to 60 years to do the damage that our
3 environment has been exposed to. I believe it was a God given
4 gift, the earth. I believe that the creation and nature is a
5 perfect harmony and balance, and I believe the intrusion of
6 population has gotten into that to the point where there's so
7 much damage out there, it scares me to think that we will make
8 another decision that will be the wrong decision and to sell
9 our mountains out to any kind of development for a few bucks
10 would be awfully sad.

11 If I had a vote, it would definitely be no, go
12 somewhere else. Take it to Canada. Take it back to your
13 country.

14 I thank you all for my opportunity to speak tonight,
15 and I hope you respect the people that put the --
16 established -- the people before you with LURC that established
17 the conservation guidelines of developing in these mountains.
18 I hope you respect that as much as I do. Thank you.

19 THE CHAIR: Thank you, Michael. Brian Ricker is it.
20 There's Brian; and after Brian is Ray Craemer.

21 MR. RICKER: Good evening. I'm Brian Ricker and I
22 live in Eustis. I'm also a resident of Chain of Ponds. I have
23 a camp up there. We spend approximately five to six months
24 worth of time up there each time off and on depending on where
25 I'm working.

1 I'd like to see the windmills -- I'd like to see
2 this -- I'd like to see it happen for a couple reasons. I work
3 for local contractors and we'd like to see some of the work, of
4 course, but the biggest thing is I think it would help the
5 community a lot, and I can't see where it would hurt the Chain
6 of Ponds area at all.

7 I spend a lot of time up there. I'm on Kibby Range a
8 lot, off and on. It is a beautiful area, but, I mean, this is
9 a good opportunity for us to do something. I would just like
10 to say again, I think I would like to see it happen.

11 In closing, I am a contractor and construction
12 worker, and I know I've done a lot of work in the -- certainly
13 Maine Yankee over the years when it was up and running -- and I
14 always think back about when we're getting done at the end of
15 the day and we're working on the so-called hot side of the
16 plant like that, when you all have to stand in line and get
17 decontaminated, we'd look at each other and say, there's got to
18 be a better way for us to be doing this, what we have to go
19 through.

20 Thanks a lot.

21 THE CHAIR: Thank you, Brian. Ray. And following
22 Ray is Hellmut Bitterauf.

23 MR. CRAEMER: My name is Ray Craemer. I'm a resident
24 of Eustis, Maine, and I am speaking to you in opposition of the
25 Kibby Mountain wind project.

1 The issues pertaining to preserving the mountaintops,
2 protection of the native species, and the beauty of the area
3 are as valid as ever. The Kibby project also has the issue of
4 a company from another country invading our country, using
5 millions of our tax dollars to build a wind turbine plant to
6 take the power and sell it out of state and take the profits
7 out of our country. That doesn't pass the smell test with me.

8 Other issues concerning the fact that we in Maine do
9 not need the power and by increasing our production, enable
10 states that should be taking action on their own to avoid their
11 responsibilities. They need to address the pollution they are
12 causing.

13 As I see it, your major concern is whether to abandon
14 all your longstanding principles of protecting the high
15 mountains and rezone this area. This probably may very well be
16 a moot point.

17 Recently the governor's task force on wind mills
18 received testimony from an expert in the windmill manufacturing
19 field. That report stated that recent improvements in the
20 windmills allow them to operate effectively with strength 2 and
21 3 wind, strength 5 is no longer essential. I don't know if you
22 read this report; I'm sure one of the intervenors will be sure
23 that you receive it.

24 Assuming that the facts are correct, there is no
25 reason to consider defacing the mountains at all. Some other

1 areas of Maine are looking at large wind farms and some farmers
2 seem interested in leasing land for windmill operations.

3 That's a win/win to me.

4 I realize that the proponents of wind power in the
5 mountains spent a lot of money getting access to the sites they
6 have, but the State of Maine has no burden to rezone just to
7 accommodate those. They knew that rezoning was never a done
8 deal.

9 Another issue is power lines that would be built.
10 Not only are they an eyesore for miles, but the cost of
11 construction and maintenance would be borne by the consumers.
12 The cost the producing power is a small part of the total
13 electric bill.

14 I urge you to deny this petition. If windmills in
15 the mountains are truly the only way Maine can survive, that
16 will be true years down the road and can be addressed at a
17 later date.

18 If not and the intervenors are right, you will cause
19 a travesty we will never recover from. Thank you.

20 THE CHAIR: Thank you, Ray. Hellmut. Following
21 Hellmut is Larry Bulin, I believe it is.

22 MR. BITTERAUF: Chairman Harvey, commissioners, and
23 staff, thank you for letting me speak.

24 My name is Hellmut Bitterauf, and I live in
25 New Sharon. We moved to Farmington in 1978 and raised four

1 children with the help of these mountains. We hiked, skied,
2 and pitched a tent and we enjoyed the beauty of this mountain.
3 A tragic accident will connect me forever to these mountains.

4 LURC commissioners are asked to change the zoning of
5 the mountains above 2700 feet. The Land Use Regulation
6 Commission has recognized the special features of mountain
7 areas and the distinct contributions the high mountains make to
8 the ecology, water quality, culture, and identity of Maine.

9 LURC created a zone called protected mountain areas
10 that prohibits development. The Commission is now asked to
11 permit installation of 44 huge industrial machines called
12 windmills. These structure are 410 feet high, more than twice
13 as high as the Capitol dome in Augusta.

14 The mountain edge is jagged. There's cliff and
15 enormous boulders. How much bedrock has to be blasted away to
16 level an area big enough to lay down and work on 160-foot
17 windmill blade. Are we looking at 300 feet of level ground per
18 turbine, that would be up to more than 2 miles of mountaintop
19 removal?

20 You know that the concrete foundations will last
21 hundreds of years and can never be removed. What is the life
22 of the turbines? Are they operating five years, ten years,
23 twenty years? Who's taking the turbines down when they are
24 outdated or the use ceases to be economical? Are we assured
25 that this project will even shut down a single coal-fired

1 plant? Or is it true that the green credits received from
2 producing wind-generated is used to offset the pollution of
3 coal-fired plants not performing to improve emission standards.
4 This would mean a sacrifice on our mountains and get additional
5 acid rain from the Midwest.

6 We're all concerned about climate change. It's the
7 most serious long-term challenge we're facing. Destroying the
8 pristine mountains to drop a few megawatts into the growing
9 energy pocket will not solve the problem. Windmills on top of
10 high mountains are not the solution. Reducing energy
11 consumption is the only solution. Thank you for letting me
12 speak.

13 THE CHAIR: Thank you, Hellmut. Larry, are you here?
14 Following Larry is Jo Craemer.

15 MR. BULIN: My name is Larry Bulin. I'll make this
16 short and sweet.

17 We all know we have a problem with energy and the
18 high cost of energy. We can't continue on this way. People
19 just can't afford to do, people paying the cost of energy, so
20 something has to be done. I think wind power is a good thing
21 to get on-line.

22 I've seen the Mars Hill one. I don't feel that
23 they're an awful sight by any means. I've seen them in
24 California, also. I think they're kind of neat actually.

25 So I think that I'm in favor of it, and I've talked

1 to TransCanada. I think they're well educated about this kind
2 of project, and I think they're the type of people who do a
3 good job installing and putting this together.

4 So I am in favor of the wind power. Thank you.

5 THE CHAIR: Thank you, Larry. Jo.

6 MS. CRAEMER: My name is Jo Craemer. I live in
7 Eustis, Maine, and I am in opposition to this project.

8 Thank you once more for your patience and attention
9 in yet another public hearing regarding the proposed wind
10 turbine development in Maine, this time in the Kibby Mountain
11 Range location.

12 During the past year it has become obvious that
13 opposing factions have two major reasons for supporting or
14 opposing this project. The folks in support found the project
15 would be a statement -- a statement of Maine's commitment to
16 help save the world from global warming by reducing greenhouse
17 gases; those opposed felt that the very small benefit from this
18 wind-generated project was not worth the catastrophic and
19 permanent loss of long protected mountaintop wilderness in one
20 of Maine's most beautiful scenic areas.

21 Supporters of this wind turbine farm make the
22 assumption that there is actually a significant man-made
23 causative agent for global warming, that the use of fossil
24 fuels is causing imminent, catastrophic climate changes for our
25 kids and our grandkids. I submit that they are taking at face

1 value biased pseudo environmental reports which do not
2 represent the reality of Mother Nature's natural cycles.

3 What is being blatantly ignored is that it takes
4 millions of cyclic warming and cooling. Our Maine mountains
5 clearly show sculpting from the advance and the retreat from
6 the last period of glaciers.

7 Over eons the arctic snow pack grows and shrinks and
8 grows and shrinks with subsequent raising and lowering of the
9 oceans' depths.

10 Do you know how Greenland got it's name? It got its
11 name when it was discovered by the Viking explorers. It was
12 green. It had a temperate climate perfect for farming.

13 Allowing this huge wind turbine to designate and
14 desecrate the scenic wilderness of the Kibby Mountain Range is
15 beyond comprehension. We do not need to destroy our mountains.

16 It's with a feeling of irony that today I'm asking
17 you to review the Land Use Regulation Commission. Just this
18 morning in my dentist's waiting room, I picked up the September
19 issue of the Down East magazine. The magazine cover photograph
20 and the leading article was entitled, "Maine's Wildest Places:
21 How do you save them forever."

22 For over 20 years the LMP program, the Land for
23 Maine's Future program, has preserved more than 147 of our most
24 beautiful and fragile places. This program, funded by bond
25 issues, has been a successful tool for conservation groups to

1 protect precious places in the state, places like Tumbledown
2 Mountain.

3 The article says this group is down to their last
4 dollars and members are being asked to approve new bond funds.
5 Here you sit, you at LURC, able to make the decision to protect
6 a massive scenic Maine mountain range at no cost. Maine needs
7 these mountains far more than she needs the wind turbine farm,
8 which will destroy them.

9 In summary, this wind turbine project will not have a
10 significant effect on the global warming or cooling cycles.
11 This project has been pushed and justified as a demonstration
12 of Maine's environmental concern rather than as a meaningful
13 contribution to solving the problems of greenhouse gas
14 emissions.

15 This wind turbine farm will destroy a rare and
16 beautiful mountain range, one of Maine's most precious
17 geographical assets, for our lives and for the lives of our
18 children and grandchildren, and their children's children.

19 Please do not approve the rezoning that would open
20 these peaks to such inappropriate industrial use. Thank you.

21 THE CHAIR: Thank you, Jo. Nancy O'Toole. Is she
22 here? Lauri? Are you Nancy?

23 MR. SIBRILKIN: I'm going to read Nancy O'Toole's.
24 She took ill about midday and had to go home. You've asked me
25 to limit the time. I'm going to have to chop this speech up a

1 little bit. It's all written, and you'll get the full copy.

2 THE CHAIR: Thank you.

3 MR. SIBRILKIN: Nancy O'Toole is my wife. Nancy
4 planned to address road issue excavations. She has comments on
5 other parts of the project.

6 The first one is about what TransCanada is proposing
7 for this project. It's stated in the application that it will
8 be producing up to 700 cubic yards of concrete per day and
9 using 28,000 gallons of water per eight-hour shift. Will they
10 be reusing their wastewater, and if not, where is all this
11 wastewater going? Nancy looked through the application and
12 totalled up the number of streams and wetlands that are likely
13 to be impacted.

14 Unfortunately, with no final plan, she could only
15 assume that these numbers will rise but she found one stream
16 and 36 intermittent streams that will be impacted and a
17 potential for 36 wetland areas of varying sizes that will be
18 directly impacted.

19 With this said, she wanted to go over to LURC's
20 comprehensive plan and just quote from it a great number of
21 very pertinent points that you and your predecessors -- and
22 this is a recent edition -- use as your guidelines to work
23 with. I'm not going to read it. They're typed out here
24 verbatim, but you guys know your plan, so that's how I'm going
25 to cut this back.

1 However, she would like to quote from Chapters 3, 4,
2 and 5. Now, testimony yesterday on behalf of TransCanada, all
3 those folks read was from Chapter 3, Page 40, Regulatory
4 Approach on Energy Resources.

5 A number of protection zones are applied to resources
6 that can be used for energy production, such as high mountain
7 area protection zones, shoreland protection zones, and wetland
8 protection zones. Nancy points out that what was not quoted
9 was the sentence that followed these, which is, In all cases,
10 the focus of these zones is the resource, the mountain
11 location, not the energy which can be produced from it.

12 In the regulatory approach for forestry, Page 46,
13 there's a fairly detailed comment. Nancy says, LURC deems it
14 important to protect the timber harvesting areas as shown by
15 the preceding paragraph. This emphasizes the importance that
16 she presumes LURC places on protecting the higher, much more
17 fragile and thus far unrestricted ridges and summits. Each one
18 of these comments is a compliment for your protective status.

19 Later on, in regulatory approach for soils and
20 surface -- surficial resources, the Commission has established
21 a soil and geology subdistrict to protect areas that have
22 precipitous slopes or unstable characteristics. She wanted
23 that one pointed out.

24 And now she comments, given the commissioners'
25 protective regulations from modestly interested activities in

1 valleys and lower areas, all of the controls you place on below
2 2700-foot development -- logging and so on, we use the word
3 modestly a little loose there -- any requirement that you would
4 impose to protect soils, hydrology, et cetera in protected
5 zones would very justifiably be so intense, so detailed as to
6 curtail any big developments in these higher and more fragile
7 places.

8 In the section labelled Mountain Resources, Page 56,
9 the P-MA zone regulates certain land use activities in mountain
10 areas to preserve the natural equilibrium of vegetation,
11 et cetera, et cetera, rather long paragraph.

12 Nancy notices, Kibby Range is rightfully included in
13 the P-MA zones. It is one of the last untouched ranges in the
14 western mountains.

15 In geologic and mountain resource issues, Page 58,
16 now this one is a dilly so I'm going to skip all of it because
17 I couldn't read it when she gave it to me, but her comment is,
18 yes, the mountain ridges have good wind; however, as this
19 paragraph points out, the intrusion and irreparable damage to
20 the area is to understate tremendously -- and she said -- to
21 accent this "extensive."

22 To get up there and build these turbines, et cetera,
23 will rip the heart right out of the work areas. I believe this
24 project is a great example of compromising the values the P-MA
25 zone is designed protect. I believe she's congratulating you

1 on protecting these high places yet again.

2 The final sentence, which I didn't quote here, is
3 important because it shows the Commission's feelings concerning
4 mitigating adverse impacts.

5 Nancy believes this means that the fact that this
6 project will presume -- produce green credits that will offset
7 other pollution generating activities at other TransCanada
8 projects is totally irrelevant as a theory. It just doesn't
9 count.

10 Under principle values and location of development,
11 Page 114, you have written this: To effectively evaluate
12 growth trends and the Commission's approach to development, one
13 must first have a clear understanding of the values that make
14 the jurisdiction so special.

15 What makes the Kibby Range so special? You have four
16 principle values -- Nancy's written up three of them -- and her
17 comment is, the Kibby Range fits these criteria beautifully.
18 Any high-elevation developments run contrary to these principle
19 values.

20 Under impact on development, again, Page 114, the
21 Commission has determined that development that occurred in the
22 latter part of the last century had minimal adverse impacts,
23 and so on. Then I quote, the most effective method of
24 minimizing adverse impacts on these type of resources is to
25 guide development away from it, and over the past two decades

1 the Commission has effectively pursued this approach. I'll
2 skip the rest of that quote.

3 The key -- Nancy says -- the key point is the most
4 effective method of minimizing adverse impacts on these types
5 of resource is to guide development away from them. This is an
6 especially important concept because these high mountains and
7 ridges are not the only places where wind power projects can be
8 effectively situated.

9 The Commission does not effectively doom
10 wind-generated electrical power in Maine when it elects to
11 continue protecting our already established P-MA zones.

12 She quotes from Chapter 4, Page 131, in the mid-'90s
13 there was considerable interest in this jurisdiction as a
14 location for wind-generated electricity. While the Commission
15 recognizes that wind power projects must be located where the
16 wind resource exists, they have potentially significant on-site
17 impacts due to their high-elevation location and equally
18 significant potential to adversely affect the jurisdiction's
19 principle values.

20 Nancy says, need I say more? This potentially
21 significant on-site impact is not just a bit of a disturbance,
22 it is a gross invasion of the surface, the soils, and the
23 hydrology. Kibby Range would never be the same.

24 She lists quotes from your goals and policies for the
25 future, where the very first sentence is, The Commission is

1 charged with planning for future growth, not just reacting to
2 it. Later on your document says, Maintain the natural
3 character of certain areas within the jurisdiction having
4 significant natural values and primitive recreational
5 opportunities. Limit the scale of new or emerging energy
6 technologies where feasible to allow time for the Commission to
7 evaluate the technology and its impact in large-scale
8 applications.

9 Nancy's comment is, your own words are perfect.
10 Don't forget that you are the best protection these places
11 have. You use phrases like "limit the scale and allow time" in
12 Paragraph 8. Good for you. Stick to this protective stance.
13 Once the mountain is torn up, there is no repairing it.

14 Mountain resource policies, Page 137, notes, Regulate
15 high-mountain areas to preserve the natural equilibrium of
16 vegetation, geology, soils, and so on. Nancy's comment is,
17 Preserve the natural equilibrium is the key comment here. This
18 is not possible in a heavy construction scenario.

19 Her wrap-up is, I have lived in this area for almost
20 two years and have been visiting, along with my husband --
21 that's me -- for 16 years. Nancy's from Utah and has lived
22 there and Montana and has seen the destruction of similar
23 fragile mountainous areas where development has gone unchecked.

24 Please don't let big development get their foot into
25 the western mountain range. Once it begins, there's no

1 stopping it. She says, thank you.

2 THE CHAIR: You can thank you Nancy for me. And you?

3 MR. SIBRILKIN: My name is Lauri Sibrilkin, I'm from
4 Phillips.

5 THE CHAIR: Okay. I just would let -- before you
6 begin, Lauri spoke to me before and told me the circumstances
7 he was in. I told him he could read his wife's testimony, and
8 I would let him testimony. That's what's going on here. I'm
9 giving him a little more time than normal. I hope he doesn't
10 take advantage of it.

11 MR. SIBRILKIN: Mine is 16 font and a lot less pages.

12 Dear commissioners, my name is Lauri Sibrilkin, I
13 live in Phillips.

14 I understand that the primary function of the Land
15 Use Regulation Commission is the protection and oversight of
16 much of Maine's undeveloped back country. I understand that in
17 many cases this Commission has seen fit to allow logging
18 contractors access to tracts of forests for the purposes of
19 harvesting the timberland.

20 I understand that you've committed to building roads
21 and bridges that accommodate the transportation of this
22 material.

23 I note that for better or worse, this has long been
24 part of Maine's economic system. I note that very rarely do
25 these rise into the protective regions above 2700 feet. As far

1 as I can tell, no roads have been permitted recently that run
2 along the ridges and reach the summits of our higher mountains.
3 I commend your protective action.

4 Given this protection, this precedent, and what is
5 written in Chapters 3 through 5 of your Comprehensive Land Use
6 Plan, I see that you are very wary of opening up the highest
7 country to road building, the installation of heavy industrial
8 facilities, and other very intrusive development.

9 My point that this project is intrusive. I'm a
10 construction worker and a truck driver and an equipment
11 operator with an interesting resume. I have considerable
12 experience with the following: The construction of roadways
13 that will support 12-axle trucks with 70-plus-ton payload is
14 quite an engineering feat. We looked up the photographs of
15 what would this need to haul the sections of the turbine
16 towers, and the cells, et cetera. I counted the axles.

17 Especially when this road must climb to ridgelines on
18 slopes that could reach 75 degrees and hold up under our very
19 moist climate, this road project will be tremendously intrusive
20 to the ever more fragile environment as it reaches higher and
21 higher up onto the Kibby Range.

22 The construction supply and utilization of a concrete
23 batch plant high up on the construction zone will be another
24 extremely intrusive event. I've been a concrete worker and
25 drove a concrete truck. Where will the sand come from? Oh, in

1 trucks up the road. Where will the cement come from? In
2 trucks up the road.

3 Well, trucks get into difficulties. Trucks that lose
4 their way in this setting will wind up spilling their guts --
5 please read oil, fuels, antifreeze, and cargo -- all over parts
6 of real estate that is not zoned for industrial waste disposal.

7 Where will the thousands of gallons required every
8 day for the mixing of the cement, the clean out of the plant,
9 clean out of the cement mixtures, and dust control come from?
10 And where will the contaminated washout water go? Think about
11 additives, aggregates, cement, slurry, and so forth.

12 Once the actual construction of the towers begins,
13 there will be machinery service areas, fuel and oil storage
14 areas, and the ever present garbage pile that every
15 construction that I've ever been on has.

16 All of this material and machinery must travel up and
17 then down the road. This constant stream of trucks and vans
18 has a predictable rate of accident. Uh-huh, more industrial
19 waste disposal.

20 None of these things are harmonious with the
21 ecosystem of a high-mountain ridge. Once the construction is
22 completed, the roads will remain changing the hydrology on the
23 ridgelines and mountain sides.

24 I've seen some of the mud and rock slides that result
25 from human interference in the higher elevations. These can be

1 truly huge and devastating events that transform the area
2 impact for decades and even centuries to come.

3 Please do not allow this project or others asking to
4 be located in similar high altitude environments to proceed. I
5 agree that our civilization needs ever increasing amounts of
6 electricity, the place to harness the wind is in friendlier,
7 somewhat attainable locations.

8 Let the wind energy industry design a wind farm that
9 the CEO of TransCanada actually installs in his own personal
10 backyard, then you will find plenty of applicants, like
11 myself -- and I own most of the hilltop -- willing to host
12 these generators in construction friendly places where the wind
13 blows reasonably well. Until then, keep the faith and keep
14 protecting our high fragile places. Thank you.

15 THE CHAIR: Thank you, Lauri.

16 I've got Dain Trafton here, but your wife said she
17 spoke for you. I'm assuming you don't need to speak.

18 MR. TRAFTON: I didn't intend to bother you.

19 THE CHAIR: But you're going to.

20 MR. Trafton: That's right. My name is Dain Trafton.
21 I'm from Phillips and I'm here to speak in opposition to the
22 project.

23 I want to dwell on just one of my reasons for
24 opposition. I am skeptical of the emissions benefits claimed
25 for the project. In discussion with Dave Wilby and Sean

1 Mahoney this afternoon, commissioners raised the question of
2 how one could be certain that the operation of the Kibby plant
3 would reduce emissions and thus help to combat global warming.

4 The explanation given by Dave and Sean was that
5 whenever a certain amount of renewable electricity is put into
6 the grid, an equal amount of electricity and related emissions
7 from a fossil fuel plant will be displaced. This can happen
8 but it is not guaranteed to happen.

9 It would not be guaranteed, for example, under
10 circumstances when there is congestion that causes competitions
11 among renewables for transmission capacity. Under those
12 circumstances, renewable energy would end up displacing other
13 renewable energy, would reduce and in fact in some cases may be
14 no emissions benefits.

15 This could have, in the western and central Maine
16 subarea of the grid, which is heavily endowed with hydro and
17 biomass plants, and although it is undoubtedly true as the
18 applicant has insisted that if such a situation were to occur,
19 it would be resolved by already existing methods of the market.

20 Nevertheless, it is highly likely that this market
21 solution would involve displacement of renewable, not fossil
22 fuel, sources. Notice I don't say certain, but likely.

23 Also, it's important to understand that emissions
24 that are displaced are not necessarily avoided, that is, they
25 may be simply moved to another place.

1 In fact, under RGGI cap and trade programs for CO₂,
2 SO₂ and nitrous oxide, which will become effective throughout
3 the RGGI region starting in 2009, fossil fuel plants that might
4 be forced to cut back operations as a result of the Kibby plant
5 will have -- almost certainly will have -- emissions allowances
6 which they will then be able to sell to other businesses, who
7 will as a result be able to emit more.

8 This is what we mean when we say emissions are
9 displaced but not avoided. The net result, of course, in such
10 a situation -- won't always occur but will occur frequently --
11 is that emissions -- that the net reduction in emissions will
12 be less than are claimed by the applicant.

13 It is not at all clear -- not at all clear -- exactly
14 how the Kibby plant will reduce emissions when, where, and by
15 how much. Thank you.

16 THE CHAIR: Thank you, Dain. Hugh Verrier, is he
17 here? Followed by Jean Gutnand.

18 MR. Verrier: Hugh Verrier from Eustis. I'm a
19 resident here, have been for a few years.

20 From the start I'm all for this project. We have to
21 have it occur somewhere to start, and it would be nice and it
22 would be wonderful if we here in this part of Maine could have
23 the courage to say yes to a project like this.

24 I'm not sure it's the answer, but it certainly is the
25 start, and I feel that further down the road -- maybe in my

1 lifetime -- we will have better renewable sources of energy,
2 maybe we'll have super conductivity, but we don't have those
3 right now. We have fossil-fuel generation.

4 We're sucking all of this out of the earth, it's
5 doing terrible things actually to the diameter of the earth.
6 Eventually we're going to implode it if we don't do something.
7 We just have to start.

8 We just can't keep saying, not in my backyard. This
9 is not a development of Kibby Range. These are towers that are
10 going to be set on that range, the construction is temporary,
11 the roads are pretty much temporary. All of that will be gone
12 once these towers are in place.

13 If down the road -- 20, 30, 40 years -- they're not
14 viable, they're not worth producing power, TransCanada has to
15 remove them. They're not going to blast off the top of the
16 mountain, they're simply going to set these units up there, and
17 let's hope they work because we just have to make a start
18 somewhere.

19 You know, the expression about so goes the nation.
20 As Maine goes, so goes the nation. Maybe if we make a start
21 like this and show that we really have the courage and the
22 intestinal fortitude to start a project like this, you'll say
23 we want to prevent what's happening, we want to curtail all of
24 this, we want to get rid of the fossil plants.

25 We're not talking about creating Flagstaff Lake and

1 eliminating villages. We're talking about putting towers on
2 the top of a mountain to generate power with a renewable
3 resource. It's a great idea. Let's try it. Thank you very
4 much.

5 THE CHAIR: Thank you. Jean, are you here somewhere?
6 And then after Jean is John Townsend.

7 MS. GUTMAND: Good evening to the Commission and
8 thank you very much for coming to our neighborhood to hear us.

9 My name is Jean Gutmand, and I am a homeowner and
10 registered voter in Eustis. I've lived here on and off for 30
11 years, and I am very happy to be retiring here and to be able
12 to look forward to taking advantage of this beautiful region.
13 And I am in favor of the wind power project in the Kibby Range.

14 I think that there is just no question that we have
15 got to try these new sources of energy, and I think Maine
16 should be proud of having tried it already. I think it's a
17 very smart and clean alternative to what we've done to the
18 environment thus far with fossil fuels, even the hydropower
19 projects, which some people think are ugly and couldn't wait
20 until the dams were removed.

21 But I love these mountains. I love these mountains
22 dearly, and I spend time outdoors north of Eustis every single
23 day. Sometimes I'll camp out up there for a week at a time,
24 and I would not find the towers and the turbines to be
25 offensive.

1 I have been around towers and turbines out west, and
2 when you come across them in a pretty wilderness area, I think
3 they're elegant, and I'm proud of the region, especially in
4 western Canada, that embrace the idea and have large wind power
5 farms.

6 So I am not offended by the turbines and I would
7 welcome them in our region. So I encourage you to approve this
8 project and bring more wind power to Maine. Thank you.

9 THE CHAIR: Thank you, Jean. John, is he here?
10 Following John is Basil Powers.

11 MR. TOWNSEND: My name is John Townsend. The
12 question before us today is whether or not Maine's Land Use
13 Regulation Commission will rescind its zoning regulation in
14 order to allow TransCanada to build 44 wind turbines that would
15 produce 132 megawatts of electricity, power lines, access roads
16 and over 27 miles of 115-kV of transmission lines on protected
17 lands.

18 The reason this question is being considered includes
19 that fact that using wind turbines to produce clean energy
20 can't help but address the threat of global warming.

21 This project would provide some economic benefit to
22 the local community. I think we all agree that wind power is
23 very stable and a desirable source for consumer electrical
24 needs. It's clean, it's renewable, it's fairly
25 straightforward. Few people will disagree with the notion of

1 building wind turbines.

2 Let's take a closer look at the anticipated economic
3 benefit to this region from this proposed plant. This zoning
4 petition asks LURC to remove some longstanding regulations that
5 were established by LURC, to allow TransCanada to build
6 extensive infrastructure in this protected area.

7 This company proposed a yearly tax contribution to
8 the region of about \$1 million, approximately a dozen full-time
9 jobs, and a community benefits package, and a \$500,000
10 contribution to help purchase some plots of land equal to about
11 750 acres on the Mahoosucs Mountain Range.

12 What does a Canadian company, TransCanada Limited
13 Energy, get in return for these gestures? They get ready
14 access to develop and use Maine's protected lands to make their
15 product. For \$270 million in capital costs, they will have the
16 opportunity to make electricity cheaply and continuously and
17 then sell it back to us.

18 If the average Maine resident uses only \$100 a month
19 in electricity at the current rate, and this complex is
20 supposed to produce enough electricity for 50,000 Maine
21 households, that would take in \$60 million per year for
22 TransCanada Power Marketing Limited.

23 Based on the current price of electricity, combining
24 \$270 million in capital costs, the \$1000 contribution, the
25 annual \$1 million annual tax payment, and the 1000 per megawatt

1 installed community benefits costs, TransCanada Power Marketing
2 Limited could essentially pay off the entire amount of all
3 these interests in five to six years and then be able to rake
4 in significant profits from then on from the sale of their
5 Maine-produced product.

6 This all assumes that all those benefits will
7 actually happen. While the firm has extensive experience with
8 gas pipelines, currently TransCanada has only one operating
9 wind powered electric production facility. This 110-megawatt
10 facility has come on-line in December of 2006. The remainder
11 of the Cartier wind energy project will not be completed for
12 another five years.

13 Concerning wind power generation, TransCanada has a
14 track record that is only ten months long; however, according
15 to the 2006 annual report, TransCanada operations have averaged
16 over 36 environmental noncompliance events since the year 1999.

17 In the same annual report, TransCanada boasts a net
18 income for last year for over \$1 billion. TransCanada has, and
19 I quote, made significant progress towards our objective of
20 being the leading North American energy infrastructure with a
21 strong focus on gas transmission and power generation
22 opportunities. We're located in a region where we enjoy
23 significant competitive advantages.

24 Even as we consider these facts about the company
25 that is asking for these zone concessions, we have to look

1 closely at important questions that are not addressed in this
2 business proposal.

3 Why shouldn't a \$500,000 contribution to buy a parcel
4 of land, develop and expand the existing parks in the Mahoosuc
5 land unit be kept close to the actual effective site? Instead,
6 use to expand the Chain of Ponds public lands unit.

7 The benefits paid to local communities are capped,
8 but the rate that TransCanada can charge for electricity is
9 not. There is no mention of repair to the damage that will be
10 inflicted on the State infrastructure, such as roads and
11 culverts. Increased heavy traffic will damage the surface and
12 roadbeds, plus interfere with the established commercial
13 trucking that depends on local highways.

14 Each turbine requires over 30 truckloads of poured
15 concrete for its foundation. That means there will be over
16 1300 fully loaded cement trucks transporting across local roads
17 before they wind their way up to newly established roads in
18 route to the Kibby ridgeline. This is before any heavy cranes
19 and transport trucks arrive to set up the 44 proposed turbine
20 towers and lift in place the 132 turbine blades.

21 Afterwards trucks will be hauling cables and towers,
22 a 115-kV transmission line that will be strung along 27 miles
23 of cleared land between the mountains and Bigelow.

24 How can these 27 miles of cleared forests for high
25 voltage lines remain clear? Is TransCanada planning to keep

1 the brush down, or do they depend on chemical applications.
2 When this whole project is completed, what fossil fuel plants
3 will be taken off-line as a direct result of this construction.

4 There is no doubt that we must find ways to provide
5 electricity in a way that will also address the problem of
6 global warming. Construction of wind power generators is an
7 excellent approach if it's done in locations that do not
8 present other significant environmental problems.

9 As seen in Quebec along the St. Lawrence River, the
10 Cartier wind energy project that TransCanada is involved with
11 are massive turbines located on the low hills next to the
12 seaway. The surrounding regions are small dairy farms and
13 light industry.

14 Despite the fact that there are 3000-foot high
15 mountains nearby on the Gaspé Peninsula where the Cartier
16 project is located, all installations are located only hundreds
17 of feet above sea level. It is clear that the current
18 technology does not require that turbines be placed above
19 current zoning permits.

20 I'm here tonight to say that the location of
21 TransCanada's proposed power generation facility presents an
22 extensive list of environmental problems.

23 Industrial construction in these areas would
24 drastically change the landscape and the function of this
25 region. The mountain area protected subdistrict regulations

1 are in place for a reason. The question is, are you, as
2 stewards of Maine's land, ready and willing to discard all the
3 reasoning and rationale of your predecessors that instituted
4 these specific protection regulations in the first place all
5 for the sake of the projected economic gain outlined in the
6 corporate proposal from TransCanada Power Marketing Limited.

7 In their amended application TransCanada offered to
8 conduct studies of bird and bat mortality when the project is
9 operating and share the results with environmental
10 organizations. What will you do if these studies are not done
11 or the results show that extensive power lines and tall turbine
12 towers are extreme dangers to migrating waterfowl or resident
13 bird populations? What will you be able to do if other
14 projections and predictions are not accurate? What do you do
15 if the promises turn out to be empty?

16 I was introduced to Maine's beautiful boundary
17 mountains' area over 20 years ago. The pristine wilderness and
18 undeveloped vistas around the Chain of Ponds were and have
19 continued to be a rare jewel in the northeast. I have
20 continued to return frequently to this area since then
21 neglecting travel to other places. Instead, during my free
22 time over the past 20 years, I have chosen to return with
23 family and friends to share with them the wonders of the
24 Benedict Arnold Trail, the Dead River, the Chain of Ponds, and
25 the surrounding mountains.

1 Over these 20 years we have leveled and restored and
2 maintained camps that were originally built in 1887 through the
3 Megantic Fish and Game Club before there were trucks or
4 commercial electric use with the wisdom of what a valuable
5 resource and pristine wilderness of the boundary area was. It
6 gave incredible amounts of effort and resources to protect and
7 preserve this unique region for generations to come. This is
8 the most fantastic thing that's been passed on to us.

9 Our labor to keep these old camps active have been
10 done with this in mind. Now, 120 years later, six generations
11 of countless people have benefited from their foresight.

12 I urge you to exercise wisdom and vision and make
13 sure that this legacy doesn't die at your hands. The
14 TransCanada proposal, ZP 709, needs to be rejected.

15 The protection of wilderness was clear when the Land
16 Use Regulation Commission developed the mountain area protect
17 subdistrict. This protection must be continued.

18 I urge you to preserve the State of Maine's current
19 regulations and zoning and that you preserve Kibby Mountain and
20 the Kibby Mountain Ranges and the land bordering the Chain of
21 Ponds public land unit.

22 I ask you to encourage the TransCanada energy company
23 to pursue their worthwhile endeavor in generating electricity
24 by wind power turbines and the generation of corporate profit
25 margins in areas that conform to established zoning

1 regulations.

2 Thank you.

3 (There was a break in the hearing at 8:02 p.m. and
4 the hearing resumed at 8:13 p.m.)

5 THE CHAIR: Basil, if you want us to write your name
6 down officially, you have to tell us your name first so Lisa
7 has it on the record.

8 MR. POWERS: First I'll address the Commission and
9 the staff, good evening.

10 THE CHAIR: State your name, first, Basil, for the
11 record.

12 MR. POWER: Basil Powers. I live on the other side
13 of this mountain on Coplin flat for 55 years. Have always,
14 will. Anybody don't know where that is, it's halfway between
15 hell and high water mark.

16 But I'm not going to beleaguer you. You notice that
17 I don't have a script to read to you tonight like a lot of
18 people have, and that's probably to your benefit.

19 If words written on a paper are going to do anything
20 to stop this project, I'm going home and spend the next 30 days
21 writing, and I'll make sure to hand deliver it to Catherine
22 Carroll. I know that she'll put it in the right place for me.

23 What could I possibly say to you tonight. You know
24 how I feel; I don't have to say it. What could I say to you
25 that would help you answer this problem.

1 I've heard it all, you've heard it all. I just hash
2 over old things, but just for the fun of it, I would like to
3 say, look, if you go into the barnyard with a bucket of whole
4 corn and you start scattering whole corn around, every chicken
5 in the barn that day is going to be plucking corn off your
6 shoes.

7 Now comes TransCanada with their little bags of gold
8 nuggets into a little community that is not used to seeing gold
9 scattered around or thrown around, and that's exactly the same
10 thing as feeding the chickens corn. The chickens see all these
11 gold nuggets in these small communities, and they're going to
12 jump on the band wagon and pluck as many of them as they can.

13 What I believe is, TransCanada believes, that these
14 chickens are going to lay on a golden egg. You know the fairy
15 tale, don't you, about the goose that laid a golden egg? You
16 scatter gold nuggets around, perhaps he'll lay a golden egg.
17 To me that looks like bribery. That's bribery.

18 But one thing I would say to TransCanada, I have been
19 travelling to Canada for 55 years. I get my grain there and
20 other things that I have bought in Lac Megantic, and I have
21 never gone through the town of Woburn, Canada and go out of
22 town going on up to the open farmlands when the dam wind pretty
23 near blows you right off the highway.

24 What the hell is wrong with putting the windmills up
25 there? The farmers would be tickled to death, it's right along

1 the highway way and not desecrate our high mountain, fragile
2 mountain areas.

3 I just can't think of anything else that I could say
4 to you that would help squash this application. If I could,
5 you'd hear it.

6 Never in my life have I ever been at a loss for words
7 and I don't think I would be tonight either. I'll tell you
8 right now, you have the regulations and you have the law on
9 your side, and if I had been sitting behind that table as a
10 commissioner and this application came across my desk to my
11 attention, the very first words would be no, N-O. What part of
12 that doesn't TransCanada understand? That's my answer. I
13 would have said no right up front.

14 I heard some good testimony in the past couple of
15 days here, and I want to bring one of them to your attention.
16 You remember Richard Batt from Farmington hospital, he stood
17 here last night and he gave very good testimony. It brought
18 back a lot of memories to me when I was fighting an ordinance
19 in Coplin and I went to a Town meeting, and Tom Gott was there,
20 and he stood up and spoke, and he said, what's the hurry,
21 what's the rush? The barn ain't on fire.

22 Well, I thought about that and I think about it
23 tonight right here in this situation. The barn may be on fire
24 but it ain't going to burn down.

25 So I heard Mr. Batt say, maybe you should step back

1 and take a few breaths, take a leave of absence if you have to,
2 take a vacation, and think about this a little bit more. He
3 said, with the task force that the governor has put in place,
4 maybe they'll work out a lot of the wrinkles for you.

5 But you heard me say the other night, just say no.
6 And that's what I'm going to leave you with until we're back
7 here again for the same project probably.

8 How many times do we have to regurgitate this
9 stinking mess, because you have the law and I ask you --
10 TransCanada and the Maine Mountain Power is asking you to make
11 new law for them, and I don't think that you have the power to
12 make new law. Maybe you do, but I thought our laws were made
13 by our State representatives who are elected to represent us in
14 Augusta.

15 (Ms. Hilton excused herself from the hearing at
16 8:19 p.m.)

17 I was there one time, I know. I don't think it's
18 possible for you to make new laws at this particular time, but
19 I'm going to let somebody else speak.

20 I said I wasn't going to be at a loss for words, but
21 what could I possibly say that would help you make a decision.
22 So good night. You've been here a long time.

23 THE CHAIR: Thank you, Basil. Paul McGuire.

24 MR. MCGUIRE: My name is Paul McGuire. I am a native
25 of this part of the state. I grew up in the little town of

1 Mexico, I taught for 40 years at Fryeburg and Gould Academy. I
2 spent a lot of my youth at the headwater lakes of the
3 Androscoggin and hiking around on the Kennebagos, and I do love
4 this area, I'll tell you that. I don't make any apologies for
5 that at all. And I don't represent anybody here tonight. I
6 belong to several organizations who have an oar in these
7 waters, but I wear too many hats to be recognized, and so I
8 speak for myself.

9 Like many in the room I was raised here. I did
10 pursue a career as a teaching historian, so I'm not an
11 engineer, I'm not an environmental guru of any kind.

12 I do follow environmental issues, particularly as
13 pertains to -- if you you'll excuse the expression -- my
14 backyard, along with everyone else in this part of the state.

15 I've heard and I've read comments for and opposition
16 to the project under consideration. Many of them are very
17 instructive indeed, and anyone would be hard pressed to get a
18 better education on both pros and in opposition to this
19 particular project.

20 I'm not an enemy of wind power; I'm not an enemy of
21 hydro power; I'm not an enemy of solar power, something which
22 is not mentioned enough in these discussions. I am an enemy of
23 waste, and I think that part of your charge in deliberating
24 these issues, since people have asked you to look beyond the
25 immediate and into regional considerations, is that of waste.

1 The word insatiable was used in hearings in
2 Farmington some time ago. We must do our part to supply power
3 for the insatiable demands of lower New England.

4 In pursuing that word, I can only conclude it can't
5 be done. No matter what happens, no matter how many are built,
6 insatiable means unfulfilled, it won't happen.

7 I don't believe one single coal-powered plant will go
8 off-line if we have insatiable demands. By that I want to
9 address a single point. Maine can take a lead, perhaps, by
10 simply changing their light bulbs, by simply putting in
11 appliances that are all Energy Star, by simply doing everything
12 they can do to reduce the use of electricity itself.

13 A few words that some lip service has paid to
14 conservation. I think it is the key. I think it is the key to
15 all. Our president used the words, we're energy addicts, was
16 the word. I don't know how you can cease being an addict
17 unless you cease being a glutton, and we can only do that by
18 truly addressing our excessive use of precious resources.

19 If I thought that it would be more amenable to
20 chewing up another piece of our irreplaceable high mountain
21 country to take care of the problem or even to make a big dent
22 in the problem, I might have to go back and rethink my
23 position, but I don't see that happening. I don't see the
24 gluttony being addressed. I truly don't.

25 Before I leave -- and you have been very patient,

1 I've watched you and you people put up with a lot of long hours
2 of sitting with people like me trying to make a point to you,
3 and I do appreciate that.

4 I want to leave you with just a little bit of a dream
5 allegory. It isn't heavy duty like Plato's Cave, but on the
6 other hand I think you might get the point and we can all go
7 home.

8 This is about a ship. This ship is laden -- laden --
9 right way up above the line with passengers -- with men, women,
10 and children -- and tremendous amounts of stuff down in the
11 holds, and it's sailing out into the future on the sea of hope
12 and denial, it's a sea that's full of reefs and full of rocks,
13 and a few passengers are nervous about that. They're just
14 nervous people. They don't like to go politely along without
15 paying much attention.

16 So they're way up on the prow of this vessel, and
17 they've got their charts, too, of course, they don't trust the
18 captain much, and they see the reefs ahead -- or they think
19 they see the area where they are. They call back, we're
20 approaching a reef zone and these are wide. We're going to
21 have to make a major alteration in this ship's course.

22 And the captain says, no, we're right on time, we're
23 right on schedule, just don't worry about it at all. They look
24 and ask the captain, well, what time do you have? And he gives
25 them that and they discover that he's wrong. The tide has

1 dropped. That reef is a lot closer to the bottom of that
2 vessel than they thought.

3 Well, these people get so nervous that they began to
4 demand the captain take stock of what he's doing, and the
5 captain says, I know what I'm doing, trust me, trust my
6 corporate crew, we know what we're doing. You folks below, go
7 to the gift shop, hit the casino, have fun, don't worry about
8 it.

9 Most of the passengers did except for this nervous
10 crowd, and they got over to the side and they said, we've got
11 to do something. Somebody said, let's put some life boats
12 overboard. We'll put some hobblers on those, and we'll hook it
13 to the side of this vessel and we'll pull her off that course.

14 So they said, yeah, but you're going to have to go
15 about 45 degrees. They said, we can do it, and they did it.
16 They meant to save that ship, and over went those life boats,
17 hooked the lines, they rowed, and they rowed with their oars,
18 and they put more hard work than you can imagine into it, and
19 sure enough, they moved that vessel 10 degrees off her course
20 as she headed towards the rocks. Thank you.

21 THE CHAIR: Thank you, Emerson [sic]. Harriet
22 Powers. Is Harriet here?

23 MS. POWERS: My name is Harriet Powers. My husband
24 is Basil Powers and he stole my line.

25 My name is Harriet Powers, and I live in Coplin

1 Plantation. I oppose the Kibby Mountain project.

2 Here I stand before this LURC committee again, and
3 I'm going to tell you why. Kibby Mountain project,
4 TransCanada, in my eye is no different than Black Nubble.

5 Although Kibby Mountain is not in my front yard, it
6 is still a pristine mountain and it is in the 2700-foot
7 protected zone.

8 I would like to set the record straight as a
9 selectman who testified yesterday is a paid official, and I do
10 not think that they should say they are representing all of the
11 voters of the Town.

12 There were several public meetings with TransCanada,
13 and as far as I know, only one in the community building. The
14 others were held in barrooms or a bed and breakfast. Some
15 people do not desire to voice their opinions in these
16 establishments.

17 As far as I can find out, there was no -- I repeat --
18 no official Town meeting in Eustis so people could really vote
19 against this project.

20 The petition spoke about yesterday, I picked up a
21 copy of it today. It is not in my estimation a legal petition.
22 It is a typewritten list of names who is to benefit from this
23 project if it was to move on. It looks like to me there are a
24 few greedy people in Eustis looking to pad their own pockets
25 and they don't care about our heritage or our wilderness.

1 They are not looking forward, because the tax
2 incentives that will be paid by the government to TransCanada,
3 comes out of whose pocketbook, we the people. If a legal vote
4 was to be taken in Eustis, TransCanada would be turned down.

5 Last, but not least, if TransCanada wants wind power,
6 let them go to the field in Woburn, Quebec where there is a
7 constant wind, no mountaintops to tear down. What about the
8 tax incentive? You figure it out. Why are they here? Thank
9 you.

10 THE CHAIR: Thank you, Harriet. Emerson Dyer. I'm
11 sorry, I skipped over you.

12 MR. DYER: My name is Emerson Dyer. I'm a retired
13 Air Force rescue helicopter pilot, and I live in Eustis, Maine.

14 Good evening, Chairman Harvey, commissioners, and
15 LURC staff. I am a new member of the Friends of the Boundary
16 Mountains, but I am speaking to you tonight on my own behalf.

17 I'm not opposed to wind turbine powers as a
18 supplement to help supply the ever increasing demand for more
19 energy, but I do feel strongly that it needs to be placed in
20 appropriate locations.

21 I heard it said today that the best wind resources in
22 Maine are in the mountains, but a chart that Maine Mountain
23 Power had on display for its recent hearing clearly showed the
24 larger suitable areas were closer to the coast. The small dots
25 in the western mountains were all on tops of mountains and

1 ridgelines, mostly already protected areas that require
2 extensive removal and relocation of rocks and soil that would
3 result in large permanent scars that will remain forever,
4 unlike the towers that would some day be obsolete.

5 I would also rather see the federal government offer
6 the 1.9 cents per kilowatt hour to the coal-fired industry with
7 the stipulation that it may only be used to put scrubbers on
8 their smoke stacks. That would actually reduce the amount of
9 carbon and other pollutants released in the air.

10 Unfortunately, your Commission isn't charged with
11 changing federal policies. You have to make the decision that
12 this one wind tower turbine project is important enough to
13 trump the protections provided to these high mountaintops and
14 ridgelines for the past 35 years.

15 I heard suggestions last night that the Commission
16 already did that and you should just follow the earlier
17 decision to allow Kenetech. I certainly hope that you will put
18 more thought into this decision than that.

19 I heard TransCanada officials say that they were not
20 planning any further projects in this area, but I am submitting
21 a copy of an article from the Lewiston Sun Journal about a tour
22 of the Kibby site in which Christine Cinnamon said,
23 "TransCanada has an option of an easement on 67,000 acres of
24 Plum Creek land with a footprint of the project across about
25 443 acres within permitted impact on about 100 acres."

1 Also why do they need to rezone 2900 acres protected
2 land above 2700 feet and then turn around and say that they
3 have agreed as part of a conservation agreement with the AMC,
4 Maine Audubon, and NRCM not to develop the areas C and D.
5 These are already protected areas. Why don't they just leave
6 them out of the request for rezoning.

7 Now I would like to address this conservation
8 agreement package that they made to gain support of these three
9 groups.

10 An article in the Original Register, which I am also
11 submitting, on September 12, '07 states that, "He -- and they
12 mean Nick Di Domenico -- explained that it is this agreement
13 that gained project support from these agencies." Eustis
14 selectman, Jay Wyman, brought up the issue yesterday, that no
15 one was being bribed. I know and respect Jay and don't think
16 for a moment that he or anyone else is being bribed under the
17 table to support this project.

18 However, one of the definitions in Webster's 9th
19 Collegiate Dictionary for bribe is something that serves to
20 induce or influence.

21 If this project is worthy of approval, why can't it
22 stand alone on its merits without TransCanada's need to offer
23 these financial incentives to these groups, some of which have
24 opposed other similar projects.

25 You must consider the impact of these expenditures --

1 this is what they call them -- whether they are called a
2 conservation agreement package or a community benefit
3 package -- when you are weighing the degree of support being
4 given to this project. You must also consider that these
5 expenditures are also tied to the approval of this project.

6 If someone put \$132,000 or \$500,000 on the table in
7 front of me and said, if I win approval to do something, I'll
8 give you this. I'd like to think it wouldn't influence my
9 decision whether to support it or not, but I'm only human.

10 And, how does the 500,000 TransCanada is using to buy
11 land above 2700 feet in the Mahoosuc Range provide any benefit
12 to northern Franklin County or the surrounding communities.
13 Wouldn't it be more appropriate for them to buy and protect
14 some of the boundary mountains, the Friends of the Boundary
15 Mountains, have proposed for protection. Even I might have
16 second thoughts about whether to support or oppose this project
17 if they did that.

18 I'm not going to address the taxes that they will pay
19 because those will be based on assessed values of the project
20 and the transmission lines, but I will predict that if the
21 project goes through, one of the first things TransCanada will
22 do is try to negotiate a TIF if one is allowed.

23 Bob Kimber was asked a question this morning by one
24 of the commissioners, how bushwhackers would compensate Plum
25 Creek for the use of their land if the towers were not allowed.

1 Well, they don't now, and they would continue to not pay
2 whether the towers were there or not. This does bring up the
3 issue, though, of why this project is proposed for being built
4 in this protected area. I say it's all about making a lot of
5 money.

6 At this time Plum Creek cannot log above 2700 feet
7 without jumping through so many hoops and requirements, they,
8 like most other companies, don't want to try.

9 This is a win/win situation for Plum Creek. They get
10 to lease the land to TransCanada for a profit and let
11 TransCanada fight the battle to gain approval to rezone.
12 Whether the wind towers are approved or not, they still get to
13 log up to 2700 feet, and then they even get to use some of the
14 new roads that TransCanada builds if it is approved.

15 TransCanada has chosen this site rather than the
16 equally windy mountains just north of the Canadian border
17 because there is an owner who can't use all of its land now for
18 a very good reason, and they will gain from leasing it. And
19 they can get -- okay -- and they can get tax subsidies from the
20 US but not Canada.

21 Their investors get accelerated depreciation
22 benefits, and they get US green credits to use or sell. And
23 finally, TransCanada gets to use the now fashionable momentum
24 of global warming to gain support for the project, even though
25 it has been shown this project will have virtually no effect on

1 carbon emissions.

2 If you approve this project, you will allow these
3 mountains to be permanently scarred. Maine has been logged for
4 the past two centuries. Most of the logging going on today is
5 second- or third-growth stand and yet it is still the pine tree
6 state.

7 Once they blast down the bedrock, carve 32-foot wide
8 roads to support a 300-ton crane and sink 30-foot deep concrete
9 pads into the landscape, they won't be able to put it back
10 together again.

11 Thank you for allowing me to speak and for the time
12 that you're going to put into making this decision.

13 THE CHAIR: Thank you, Emerson. All right. Where
14 are we here? Bob Weingarten, and I know that Ms. Browne raised
15 a concern, Robert, because you are the president of the Friends
16 of the Boundary Mountains, who are an intervenor here who have
17 a substantial amount of input to the project already.

18 On the other hand, we've had a whole bunch of board
19 of directors testify unbeknownst to me because I didn't know
20 they were on your board.

21 When I spoke to your attorney about this, my concerns
22 and what Ms. Browne had indicated, she pointed out to me that
23 perhaps a member of the board for the Natural Resources Council
24 of Maine also has testified. So I'm kind of caught in a
25 quandary here.

1 MR. WEINGARTEN: I am speaking, Mr. Chairman, as an
2 individual. I've been involved in the boundary mountains for a
3 very, very long amount of time. I have personal interest in
4 the boundary mountains.

5 THE CHAIR: I'm not arguing that. I'm just telling
6 you the position you're in. I'm not going to tell you you
7 can't testify, to answer the question, and Ms. Browne will have
8 to make her own decision whether she wants to object to your
9 testimony or any of the other members of your board who have
10 testified. I'll leave that up to her to file that objection if
11 she wishes to, but I just wanted you to be aware of the risk
12 you're running.

13 I'm not -- at this point in the night -- I'm not
14 interested in engaging in a long legal discussion about whether
15 or not you should testify, so I'm going to let you go and
16 she'll have to make her decision. Just be aware of where
17 you're at.

18 MR. WEINGARTEN: So I may testify?

19 THE CHAIR: You can go ahead.

20 MR. WEINGARTEN: Thank you very much.

21 My name is Bob Weingarten. I live in Vienna, Maine,
22 and I'm here as an individual to speak in opposition to Zoning
23 Petition ZP 709.

24 The first thing I would like to say is that I support
25 and I have experienced the fact that the boundary mountains and

1 the Kibby area, in particular, do have a sense of remoteness
2 that I do not find in other trails and other areas that I've
3 hiked in. Fortunately, I'm able to bushwhack in the boundary
4 mountains, and the experience of going in there is so different
5 than hiking on the Appalachian Trail because the adventure and
6 the feeling of wilderness and being without the guide posts and
7 the trail is just very, very significant; and I think that in
8 the future this is the kind of experience that many people will
9 want to have. I just wanted to mention that because of the
10 discussion today about the remote values of the boundary
11 mountains.

12 The major thing I want to talk about, though, is two
13 aspects where I feel TransCanada has not come in with the
14 burden of proof in terms of their application for a rezoning.

15 The first is the community benefit of avoided air
16 emissions, and the second is the question of site selection due
17 to the premier wind power on Kibby and Kibby Range.

18 For the past 30 years I have worked here in Maine in
19 public health. My career has included the development and
20 management of rural community health centers in Franklin
21 County, including the Kingfield Health Center and the health
22 center in Rangeley.

23 As a public health consultant for the past ten years,
24 I have conducted community health assessments throughout Maine.
25 I have also served on the board of Franklin Memorial Hospital

1 and the Healthy Committee Coalition of Farmington.

2 The reason I raise this background is because I also
3 understand the awful consequences of bad air towards the health
4 of the people in Maine. I have statistics, I have made
5 presentations, and I have worked in that field. I share a lot
6 of the same concerns of the people who are in favor of this
7 application have in terms of the need to improve Maine's air
8 quality, reduce dependence on burning fossil fuels, and address
9 the problem of global warming; however, I do not feel -- for
10 several reasons -- that rezoning Kibby and Kibby Range will
11 make any kind of change in those problems here in the state of
12 Maine.

13 I believe that the applicant makes unsubstantiated
14 and unfound claims concerning displaced air emissions of the
15 Kibby project. I believe that TransCanada has not
16 understood -- or has chosen not in their application -- the
17 actual operational processes of the electric grid which
18 operates more in the nature of a group or Goldberg machine than
19 a simple linear model.

20 Implicit in TransCanada's argument is the notion that
21 simply adding more wind installations will mean less
22 conventional generation, especially that which creates carbon
23 emissions, like coal.

24 To counter that and to bring some information to the
25 Commission, I have done a major research paper on the operation

1 of the grid, and I have drawn from many different authors --
2 including John Boone, who has appeared as the expert in
3 Maryland on several wind energy projects. I'm not going to go
4 into all the details, I have put that into my paper which I
5 submitted, but I just wanted to bring to your attention a few
6 of the observations of the authors who I have studied.

7 One observation is that as more wind installations
8 are added, almost an equal amount of conventional power has to
9 be brought on-line. Crucially important, wind technology,
10 because of the inherent random variations of the wind, will not
11 produce or reduce meaningful levels of greenhouse gases, such
12 as carbon dioxide.

13 The grid mechanisms involve load balancing, whereby
14 power generation meets forecasted demand in ways which also
15 protect the security of the grid, claims that wind energy can
16 displace conventional generation and significant amounts of
17 carbon emissions.

18 What has been demonstrated is that wind energy and
19 industrial scales operating within a grid system as a whole
20 must be considered as only one of the reciprocals in a fuel
21 mix. It must be entangled with conventional fuels to make it
22 even as a viable sporadic fuel substitute.

23 Grid stability requires that the fluctuations of wind
24 be batched or compensated for immediately by conventional
25 reliable generate on a minute-by-minute basis.

1 There are two consequences arising from this fact:
2 Existing conventional generation must run harder just to stand
3 in place and using more fuel to compensate for wind's
4 fluctuation, and two, the more wind energy that is installed on
5 the grid, the greater the need for expanded or new conventional
6 sources.

7 I know that this flies in the face of so much stuff
8 that you have heard and has been presented, but if you take a
9 look at the literature about this, you will find that
10 TransCanada has not even addressed any of these issues in their
11 application and the electrical -- the Electric Power Research
12 Institute in California has affirmed the finding that whatever
13 fossil fuel capacity that wind might replace, will not be on a
14 megawatt-per-megawatt basis, which I've heard said over and
15 over again.

16 In their report they conclude that in real operating
17 situations, storage of electricity is not possible. Any CO₂
18 savings will be small.

19 Now, many people bring up the issue of all the wind
20 power that's used in foreign countries. If we look at other
21 countries, performance data from Britain, Denmark, Ireland, and
22 Germany show that a substantial part of the theoretical CO₂
23 savings is not a proven practice. In some circumstances they
24 offer only minimal benefit. And I have documented and
25 footnoted all these sources for this paper.

1 As it does by Norway and Sweden, wind energy in
2 Denmark displaces a significant amount of hydropower, and that
3 can happen in Maine also, where hydropower is available.
4 However, since hydropower emits no greenhouse gases, there
5 would be no net carbon savings.

6 An Irish grid study in 2004 rather conclusively
7 showed that high penetration of wind energy, even backed by
8 flexible responsive natural gas units and many relatively low
9 levels of greenhouse gases, produce diminishing returns in
10 terms of the realizable fuel savings and consequent CO₂
11 reduction.

12 Absent a contractual relationship between
13 TransCanada and a fossil fuel-fired utility, take carbon
14 generating capacity off-line, the claim that a few kilowatts of
15 this project will generate will have any impact on global
16 warming is wishful thinking and is not based on the reality of
17 the electrical generation process. As Tom Hewson has pointed
18 out in his Redington/Black Nubble testimony, it may have the
19 opposite effect by taking green generation capacity out of the
20 mix.

21 Now, in the TransCanada's prefiled testimony --

22 THE CHAIR: How much more do you have to go here?

23 MR. WEINGARTEN: Just a minute or two. All I want to
24 add, then, is I spoke to Suzanne Watson, who is the director of
25 innovation for the Maine DEP, and I asked her for the data that

1 Commissioner Littell used in his August 1st presentation to
2 LURC.

3 And what Ms. Watson told me was that there was no
4 specific data that she could make available to me, that his
5 statements were made in a general context -- even though
6 TransCanada has used that to support their wind power
7 application -- and that the reason they don't have the data is
8 because they didn't have the funds to do a real study of what
9 the Kibby project or any other project would actually do in
10 terms of avoided air emissions.

11 So I don't think that that data that is not there can
12 be used by TransCanada to claim that DEP supports this project.

13 I have other information about why you could use
14 Class 2, Class 3 winds, but in the interest, of course, I don't
15 have the time. It's in my paper, and I hope you take a look at
16 it.

17 THE CHAIR: Did you leave a copy of it, the paper you
18 quoted?

19 MR. WEINGARTEN: Yes.

20 THE CHAIR: This is a paper that you wrote.

21 MR. WEINGARTEN: I have copies of all my papers and I
22 have footnotes I'm referring to.

23 THE CHAIR: All right. Then they're in the record,
24 then.

25 MR. WEINGARTEN: The footnotes are, yes.

1 THE CHAIR: No, but is the paper in the record?

2 MR. WEINGARTEN: I haven't put them in there, but I
3 can.

4 THE CHAIR: You have a week, a couple of weeks to get
5 it in the record if that's your wish.

6 MR. WEINGARTEN: I shall do that.

7 THE CHAIR: Thank you.

8 MR. WEINGARTEN: Thank you very much, Mr. Chairman.

9 THE CHAIR: Peter Richmond, is he here?

10 MR. RICHMOND: Thank you, commissioners. My name is
11 Peter Richmond and I live in Brighton Plantation. I'm a
12 planning board member in my home town and studied environmental
13 science in college. I'm here as an opponent to this
14 application.

15 Some of what impresses me about the ordeal of
16 deliberating on all the complexities of this issue include that
17 the scale of the output of this Kibby project should equal
18 Wyman Dam, I understand, and that that represents the watershed
19 of all of Moosehead Lake, Spencer lake, Flagstaff Lake, all
20 trickled down into a controlled dam, which will operate at peak
21 capacities of demand and schedule, that enormous amount of
22 water flow over such a huge area, and that these wind towers
23 have to be able to make an equivalent -- or intended to make an
24 equivalent -- amount of energy in 30 percent of their scaled
25 capacity because of the unevenness of the wind flow so that

1 these towers have such a scale of magnitude to them, that
2 unless they were functional, I don't think anyone would choose
3 them as a functionless art form to decorate the landscape with.

4 There are communities that will put cattle, and
5 artists and visions have unlimited scope; but it's the
6 functionality of these windmills that suggest their appeal to
7 me that as an art form I would say that I'm satisfied with the
8 appearance of the mountains as they are.

9 I see that the urgency for the creation of these is
10 not imminent because we have wars going on out there. There's
11 Christmas wars getting ready to start, and we're going to have
12 lights coming on. In the south of Skowhegan where everyone has
13 to have an inflatable snowball all lit up at night, and until
14 our culture is willing to accept the degree of comfort that we
15 get from our wasteful habits, we have no chips to hold back
16 with.

17 If we were playing a game of strip poker where we
18 stripped the natural character of our landscapes in order to
19 fulfill the promise of a strip mall somewhere out of town, we
20 are left naked with nothing left; and if the model for
21 sustainable forestry has become a thing of the past, then that
22 itself needs to be embraced as the breakdown in the system that
23 leaves Plum Creek in a financial crisis, or whatever they would
24 argue for their sustainability for growth, and that --.

25 It seems that it's -- it's putting the horse in front

1 of the cart. There are proposed seven nuclear power plants.
2 There's 5th and 10th generation nuclear plants being designed,
3 there are seven proposed in the United States.

4 It is hard to imagine that Canada won't be compelled
5 with their radioactivity resources to provide a nuclear power
6 plant that would obviate the need for all this brain damage
7 that's going on here to have these compromises deliberated over
8 that are painful to almost everybody in some sense because we
9 know that there's almost no pure win in it for anyone.

10 The rule of unintended consequences is -- it seems so
11 obvious to me that when the wind stops blowing, you have to --
12 if there is a real demand for electricity and a perceived
13 demand growth over time, that whether it's perceived or whether
14 it's real I think is one of the important elements that we need
15 to come to grips with collectively, because when the wind stops
16 blowing, you've got to flick the switch on some back-up power
17 plant and there's 100 percent of the demand load requirement to
18 be fulfilled by regular fossil fuel and nuclear powers when the
19 wind stops blowing.

20 So those -- the windmill is almost like priming the
21 pump for further energy demand by supplying the supply side,
22 making people believe that there is a reason why I should waste
23 a little more electricity if I want to and how this is all
24 accounted for in my bill and in my behavior, and that with the
25 psychological presence of mind of feeling good about continuing

1 business as usual off of the grid, perpetuates the escalation
2 of fossil fuel consumption because it has to back up the wind
3 power when wind goes down.

4 If you're going to build another mall or another
5 hospital or another school in another community that are all
6 relying upon this energy during their peak requirement times,
7 you cannot fail them and you can't have the wind power people
8 say, in a vacuum, well, I've done my share to try to abate
9 global warming issues and now it's really not in my scope to
10 answer the question of how does escalating the supply and
11 demand equation of electrical consumption ever reduce
12 greenhouse gases. Thank you very much. I appreciate the
13 opportunity.

14 THE CHAIR: Thank you, Peter. I hope it's your
15 planning board and not ours that has to renew the nuclear power
16 plant.

17 Marcia White, is she still here? Oh, yes, there she
18 is.

19 MS. WHITE: My name is Marcia White, and I, too, am
20 beginning to feel like a LURC groupie. Most of the points I
21 made in my testimony in favor of the Black Nubble project are
22 applicable in this case, as well, from my viewpoint and the
23 viewpoint of my family.

24 I have lived in Wyman Township for over 30 years.
25 Our 20 acres of unorganized territory fits our family and

1 lifestyle very well. Though the Kibby project location is not
2 in our backyard, as the Black Nubble project is, the proposed
3 site does sit in the middle of my fitness center.

4 I've been an avid road cyclist for ten years since my
5 first year riding the trek across Maine and working for all of
6 their causes that are promoted by the American Lung
7 Association.

8 Now that Route 27 from Stratton to the Canadian
9 border is newly redone with paved shoulders, it is Heaven for
10 cyclists. There are cyclist groups from Canada that ride back
11 and forth on a regular basis, as well as dozens of us from this
12 area.

13 I've ridden a section of road from Stratton through
14 Chain of Ponds up to Coburn Gore and back several times a week
15 since the middle of last April. It's a glorious 50-plus-mile
16 bike ride, particularly on Sunday mornings when one can often
17 ride for miles without having a vehicle pass in either
18 direction. My record for this year is 17 miles without seeing
19 a car.

20 Yesterday on my ride, the animal count -- which is
21 always interesting to keep -- was three moose, one pileated
22 woodpecker, a young coyote, and an inevitable dead skunk in the
23 middle of the road.

24 Would I like to actually see the wind turbines I
25 tried to visualize yesterday on the Kibby Ridgeline, yes, yes,

1 yes.

2 I'm sure that you've all heard the saying by Margaret
3 Mead, never doubt that a small group of thoughtful committed
4 citizens change the world, indeed it's the only thing that ever
5 has.

6 My family is a small group of thoughtful, committed
7 citizens. We have many friends that fit that description as
8 well. We're worried about the direction our planet is headed
9 in because of our global addiction to fossil fuel that is
10 literally eating away at our world as we know it.

11 As committed citizens, we change light bulbs, we turn
12 down the thermostat, we drive our cars less, we put solar
13 panels on our roof, we write our congressmen and congresswomen
14 on a regular basis and sign every environmental defense
15 petition that there is, but I feel like our efforts are having
16 only a small impact on a colossal problem. It's a feeling of
17 futility.

18 You, as LURC commissioners, are also a small group of
19 thoughtful, committed citizens, and your decisions can
20 potentially have a big impact on the colossal problem.

21 I urge you to approve both the Black Nubble and the
22 Kibby wind project and hope that together a large group of
23 thoughtful, committed citizens can change the world. Thank
24 you.

25 THE CHAIR: Thank you, Marcia. Jan Collins. I don't

1 have anybody else after Jan. I don't know if I'm missing
2 anybody, but Jan's the last speaker.

3 MS. COLLINS: My name is Jan Collins, and I live in
4 Wilton. I have a picture of a wind turbine that I would like
5 to give to the commissioners. Can I do that right now so you
6 can -- the picture speaks.

7 THE CHAIR: You can certainly bring it over. I would
8 tell you we've all seen wind turbines, we visited them and
9 everything else. You're welcome to show us. We've seen a lot
10 of them in the last two days, so.

11 MS. COLLINS: I'm passing out this picture because
12 I've been struck when I have seen pictures showing what the
13 wind turbines will look on top of mountains, because I think
14 that the scale is purposefully misleading, and I wanted you to
15 see what it looked like up close.

16 I had to use a telephoto lens to take this and get in
17 both the tower and the 18-wheeler that's down in the corner
18 there.

19 What struck me about this was that the 18-wheeler
20 clearly looks like a Matchbox truck, and I need to assure you
21 that this photo has not been touched up in any way. There is
22 also a huge, huge backhoe there that also looks like a tiny,
23 tiny Matchbox figure.

24 The reason why I bring this up is because I want to
25 make note of the huge impact that this is going to make on what

1 I consider a fragile mountaintop. I confess, I have been a
2 member of the Appalachian Mountain Club, I have been a member
3 of Audubon, the Natural Resources Council of Maine. I've
4 contributed to the Lung Association, the Appalachian Trail
5 Conference, and just recently I joined the Boundary Mountains.
6 I am not a board member, and most of these I do little other
7 than contribute a small amount of money each year.

8 I have actually worked for the Appalachian Mountain
9 Club, also, as a naturalist, which meant my job was to stand on
10 top of mountaintops and tell people how fragile the alpine
11 environment is, and that they're footsteps were important
12 because if they walked off the trail, they could easily destroy
13 growth that had taken of hundreds of years to grow just a few
14 inches.

15 It is then beyond my imagination that we could
16 propose that blasting and clearing the tops of mountains is not
17 going to damage this fragile ecosystem.

18 In the last 20 years I've been a school teacher. I
19 teach high school biology, I teach high school chemistry, and I
20 teach, recently, high school civics. In that time period I
21 have spent a lot of effort educating my students on
22 environmental issues, and in fact, when I did my master's
23 program, I took a special program offered called global earth
24 systems science and did a paper on global warming in Maine
25 using data from the Portland Weather Station.

1 Global warming is real. I understand that and I have
2 researched in that time period lots of alternative energy
3 sources. Never once did I imagine that those alternative
4 energy sources would mean leveling my precious mountaintops,
5 and probably like most people here, I consider them mine
6 because they have been a part of my life having been born in
7 Rumford and grown up in this area and living here now.

8 I live here not because it offers great economic
9 opportunities but because this is where my heart is and it is
10 in my opinion the most beautiful part of the eastern United
11 States.

12 I've also hiked the Appalachian Trail from end to end
13 twice -- Georgia to Maine -- and in that I expected, not being
14 a world traveler, to see other parts of the Appalachian Trail
15 that would somehow rival what we have here in Maine. I
16 shouldn't have been shocked but was shocked to find that the
17 place that I grew up in and loved was the most beautiful part
18 of the eastern United States and found there are no rivals.

19 I would find it a sad situation to offer those
20 mountains up as a sacrifice.

21 Mountains are a nonrenewable resource. There are
22 much fewer of them than there are coal mines. Mountains cannot
23 be replaced.

24 I intended to talk more about the size of the wind
25 towers and the impact they'll have, but I'll just submit that

1 as testimony.

2 I thank you very much for your patience and your
3 time. I honor all the work that you have done and your
4 commitment to the resources of Maine. Thank you very much.

5 THE CHAIR: Thank you, Jan. All right. I think that
6 brings us to the conclusion of this two-day hearing.

7 I want to remind everybody that the record for the
8 hearing will remain open for ten days until October 15th to
9 receive written statements from interested parties.

10 If any of you here tonight want to submit additional
11 material, you have until then to do it. And then it is open
12 for additional seven days. If you want to read all that stuff
13 that comes in on the 15th and rebut any of it, you can do that
14 as well, but you have to do that by October 22nd.

15 My understanding is the parties at this proceeding,
16 which are the intervenors and the applicant, are going to make
17 one filing on October 22nd to submit their comments. That's
18 their choice.

19 Do I need to say anything else about this? You
20 have - I think I said earlier that we have until November 21st
21 to -- for your findings of fact and conclusions.

22 With that, I think I will close this hearing.

23 (The hearing was concluded at 9:09 p.m.)

24

25

CERTIFICATE

I, Lisa Fitzgerald, a Notary Public in and for the State of Maine, hereby certify that on October 2 and October 3, 2007, a hearing was held regarding Zoning Petition ZP 702; and that this hearing was stenographically reported by me and later reduced to typewritten form with the aid of computer-aided transcription; and the foregoing is a full and true record of the testimony given by the witness.

I further certify that I am a disinterested person in the event or outcome of the above-named cause of action.

IN WITNESS WHEREOF, I subscribe my hand and affix my seal this October 19, 2007.

LISA FITZGERALD, NOTARY PUBLIC
Court Reporter

My commission expires: May 10, 2011

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\$1,000 [1] - 256:13
\$100 [1] - 629:18
\$100,000 [1] - 490:17
\$1000 [5] - 200:19,
214:16, 261:18,
568:25, 629:24
\$12 [1] - 366:15
\$12,000 [1] - 201:14
\$132,000 [4] - 214:17,
256:12, 261:18,
647:6
\$1500 [1] - 223:8
\$25,000 [3] - 214:13,
256:15, 568:24
\$250 [1] - 584:21
\$270 [4] - 256:5,
577:4, 629:15,
629:24
\$300 [1] - 568:22
\$380,000 [1] - 255:4
\$500,000 [4] - 584:19,
629:9, 631:3, 647:6
\$581 [1] - 255:10
\$60 [2] - 502:18,
629:21
\$730 [1] - 255:11
\$80 [1] - 288:23
\$80.33 [1] - 502:17
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